

(House Substitute for  
H. B. 1073)  
(Conference)

**(No. 40-2013)**

(Approved June 30, 2013)

## **AN ACT**

To create the “Tax Burden Redistribution and Adjustment Act”; add a new Section 7.022 is hereby added to Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico”; amend Section 3.14 of Act No. 83-1991, as amended, known as the “Municipal Property Tax Act of 1991”; amend Section 6.08 of Act No. 255-2002, as amended, known as the “Cooperative Savings and Credit Associations Act of 2002”; amend Sections 23.0 and 35.9 of Act No. 239-2004, as amended; amend Section 4 of Act No. 91-2006, as amended, known as the “Dedicated Sales Tax Fund Act”; and to amend subsection (a) of Section 1021.02; amend subsection (b) and add a new subsection (d) to Section 1021.04; add Section 1021.05; amend subsections (b), (c), (d), (e), and (f) of Section 1022.02; amend subsections (b), (c), and (d) of Section 1022.03; amend subsections (a), (b), and (d) of Section 1022.04; amend subsections (c) and (d) and add a subsection (e) to Section 1022.06; add Section 1023.10; amend subsection (b) of Section 1031.01; amend subsections (b) and (c) of Section 1033.14; amend subsection (a) of Section 1033.15; amend subsection (a) of Section 1033.17; amend subsection (u) of Section 1034.04; add a new Section 1051.11; add a new Section 1051.12; amend subsection (b) of Section 1061.20; amend subsection (a) of Section 1061.21; amend subsections (a) and (c) of Section 1061.23; amend subsection (a) of Section 1062.04; amend subsection (a) of Section 1062.05; amend subsection (a) of Section 1062.07; amend subsection (a) of Section 1071.02; amend subsection (a) of Section 1114.06; amend subsection (b) of Section 1115.04; amend subsection (d) of Section 3030.16; amend subsection (nn) of Section 4010.01; amend subsection (a) of Section 4020.05; amend subsections (a) and (b), add new subsections (c) and (d), and amend and renumber subsection (c) as (e) in Section 4020.07; repeal subsections (a) and (b); amend and renumber subsections (c), (d), (e), (f), and (g) as (a), (b), (c), (d), and (e), respectively, and add a new subsection (f)

to Section 4030.02; amend subsection (c) of Section 4030.08; amend subsection (a) of Section 4030.12; amend Section 4030.15; repeal and reserve Section 4030.18; amend subsection (a) and add a new subsection (e) to Section 4030.19; amend subsection (a), add a new subsection (b), amend and renumber current subsection (b) as (c), repeal subsections (c), (d), (e), (f), and (o), and amend and renumber current subsections (g), (h), (i), (j), (k), (l), (m), and (n) as (d), (e), (f), (g), (h), (i), (j), and (k), respectively, in Section 4030.20; amend subsection (b) of Section 4042.04; amend subsections (a) and (b), and add subsections (c), (d), and (e) to Section 4050.04; amend subsection (c) of Section 4050.06; amend subsection (a) of Section 4050.07; amend subsection (a) of Section 4050.08; amend subsection (a) of Section 4050.09; amend subsection (a) of Section 4060.01; amend subsection (a) of Section 6041.09; amend subsection (a) of Section 6041.10; amend subsection (a) of Section 6054.01; add Section 6054.02; add Section 6054.03; add Section 6054.04; amend subsections (a), (b), and (c) and add subsection (e) to Section 6080.14 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to address in a fair, proportional, integrated, and responsible manner the fiscal crisis of the Government of the Commonwealth of Puerto Rico, protect the Government’s credit, and address the structural deficit in accordance with the constitutional mandate, as well as to provide resources to the General Fund in order to further the economic development.

### **STATEMENT OF MOTIVES**

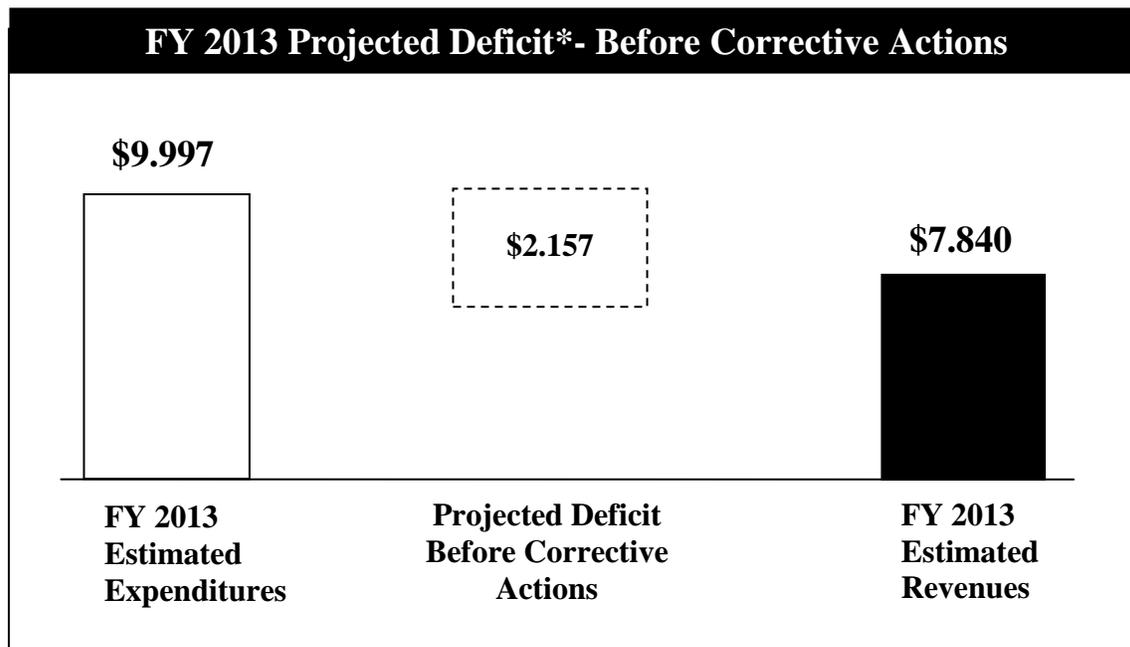
Puerto Rico is facing a challenging fiscal situation, for which we must have an established plan. The current situation is certainly a reflection of a disheartening economic growth index that mirrors the global economic recession. Likewise, we are facing the progressive deterioration of fiscal aspects of the Government, which affects its ability to generate the necessary resources for the General Fund, meet retirement fund obligations, and cut back on government spending, among others. All of the foregoing also affects the Government’s ability to access stock markets, given the high interest rates that it would have to pay. This, in turn, will prevent the Government from carrying out capital works that can boost the Island’s social and economic development. Hence, it is necessary to establish a revenue-generating

mechanism without imposing additional burdens on the working class. We have identified solutions whose implementation will depart from the lack of transparency that characterized the past Administration. The People of Puerto Rico deserve a plan that includes stringent measures implemented in a sensible manner, bearing in mind the important role that the Government can play in the development of the economy. In these crucial times, we cannot focus on one-dimensional measures, such as the massive layoff of public employees carried out by the past Administration, which overlooked the damaging effect it would have on our already weakened economy, as well as the mental health of the people affected, who were treated as just another statistic. Moreover, this type of crisis cannot be resolved through advertising campaigns seeking to convince the People of a false reality.

The extent of our actual situation cannot be underestimated. In early 2013, this Administration found out that the so-called economic recovery, the balancing of the budget, and the improvements on government finances were only an illusion. For the Fiscal Year ending on June 30, 2013, the structural fiscal deficit was estimated at nearly \$2.157 billion, which can be broken down as follows: \$332 million in deficit financing through the Dedicated Sales Tax Fund Corporation (COFINA, Spanish acronym), \$775 million in debt refinancing, nearly \$140 million in overspending by some agencies, and an insufficiency of approximately \$910 million in the General Fund's net income as of January 31, 2013. The figure below summarizes the different components:



**Summary of Fiscal Year 2013 Projected Deficit as of January 31, 2013**  
(In billions)



\*All amounts are based on revenues and expenditures as of January 31, 2013 and are not audited.

We are currently hard at work carrying out different initiatives to responsibly address this crisis. Among the measures taken to improve our fiscal situation is the transfer of \$241 million from the Debt Redemption Fund to the General Fund. Such money was held on reserve since 2010 for potential payment of collateral in derivative instruments or swaps linked to general obligation bonds of the Government of the Commonwealth of Puerto Rico with a variable interest rate. Given the significant decrease in the bond swap portfolio during the last two years, this reserve has been applied to the deficit. Another income source is the \$280 million paid in advance by businesses that are subject to the non-resident withholding tax related to the use of municipal licenses in the manufacturing process. As part of our transparency policy, it is worth mentioning that these measures do not generate recurring revenues. However, this Fiscal Year's \$910 million revenue gap has been significantly reduced to nearly \$435 million. Moreover, the recently approved amnesty which is expected to close such gap even

more has yet to take effect. The sum of the General Fund's estimated revenues for this year, without taking into account the potential proceeds from the amnesty, could amount to \$8.305 billion, compared to the originally estimated \$8.750 billion. Likewise, this Administration has already taken some measures that include the Jobs Now Act, the Retirement System Reform, and the amendment to increase the Excise Tax on Foreign Corporations which, together with the tax measures provided herein, represent the first step in a long journey toward our economic recovery.

At this juncture, in order to implement measures that can really work, we must consider the interaction of all the components of our economy that are capable of progressively taking it out of this bind. The measures proposed herein fundamentally recognize that the risk of increasing taxes in the current economic conditions may neutralize the efforts being made simultaneously to reactivate the economy and the job market. However, if the fiscal insufficiency and the credit crisis are not immediately addressed, the necessary conditions for recovery cannot be achieved.

In seeking an even balance, this Administration has made an effort to distribute the additional tax burden proposed herein among the different sectors of the economy, focusing on those that, in one way or another, enjoy some sort of favorable treatment under the current scheme. Thus, we ensure that every taxpayer, regardless of its size, condition, or trade makes at least a minimal contribution in this revenue-generating effort geared toward attaining our Island's recovery. Furthermore, besides being balanced and fair, the imposition of taxes must guarantee the integrity of collections, reduce tax evasion, simplify the processes to achieve compliance, and be consistent with the tax system as a whole. Therefore, with the foregoing as a goal, the Tax Burden Redistribution and Adjustment Act is hereby established.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Title.-

This Act shall be known as the “Tax Burden Redistribution and Adjustment Act.”

Section 2.- A new Section 7.022 is hereby added to Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico,” to read as follows:

“Section 7.022.- Special Tax on Premiums.-

(a) For taxable years beginning after December 31, 2012, there shall be imposed, collected, and paid a special one percent (1%)-tax on the premiums of every insurer, in addition to the tax on premiums imposed under Section 7.020 of this Act, and to any other tax imposed under this Code or under Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico.” This provision shall only apply to premiums earned after June 30, 2013. The rules set forth in Section 7.020 shall apply to this special tax on premiums; however, the exception provided in Section 7.021 shall not apply.

(b) The special tax described in subsection (a) shall not apply to premiums earned on Medicare Advantage, Medicaid, and premiums earned on the Mi Salud Program or on annuities.

(c) The special tax on premiums shall be paid to the Secretary of the Treasury of the Commonwealth of Puerto Rico through the Office of the Commissioner. Such tax shall be payable on or before March 31 of the following calendar year.

(d) For purposes of computing the Authorized Control Level of health insurance issuers or health service organizations, the Office of the Commissioner shall consider the provisions of this Section as a credit.”

Section 3.- Section 3.14 of Act No. 83-1991, as amended, known as the “Municipal Property Tax Act of 1991,” is hereby amended to read as follows:

“Section 3.14.- Inventory of the Manufacturer, Merchant or Dealer.-

That portion of the property of any manufacturer, merchant, or dealer consisting of merchandise in stock or other items for sale shall be accounted for separately and appraised according to the annual average cost for inventory for the calendar year immediately preceding the date of valuation as it appears on the books of said manufacturer, merchant, or dealer, should they keep an acceptable accounting system which clearly and exactly includes periodic inventories for said year. However, if the balance of the inventories includes the amount paid on account of the Sales and Use Tax, the amount corresponding to the payment of such tax shall be reduced. For valuation purposes, the inventory valuation method known as ‘LIFO’ (last-in/first-out) is not an acceptable accounting method for purposes of this Act. If the accounting system does not clearly and exactly reflect the periodic inventories during said year, or in the event that said manufacturer, merchant, or dealer does not keep any accounting system whatsoever, the determination of the annual average inventory of such manufacturer, merchant, or dealer shall be made according to the method which clearly reflects its value and the value of the inventory on the date of the valuation for the computation of the tax as established by this Act, in which case, the annual average cost for inventory will represent the cost of replacement or reproduction for the dealer during the year immediately preceding that of the date of appraisal, but not its retail sale price. The above shall be subject to the non-limitation of the ways in which to clearly and exactly determine the taxpayer’s average inventory.”

Section 4.- Section 6.08 of Act No. 255-2002, as amended, known as the “Cooperative Savings and Credit Associations Act of 2002,” is hereby amended to read as follows:

“Section 6.08.- Tax Exemption.-

(a) General Rule. - Except as provided in subsection (b) of this Section:

(1) Cooperatives, their subsidiaries or affiliates, as well as the income from all their activities or operations, all their assets, capital, reserves, and surplus, and those of their subsidiaries or affiliates, shall be exempt from any type of income, property, and excise taxes, as well as license fees or any other levy imposed or to be imposed in the future by the Commonwealth of Puerto Rico, or any political subdivision thereof, except for the Sales and Use Tax established in Sections 4020.01 and 4020.02, the tax authorized by Section 6080.14, and excise taxes imposed under Chapter 2 of Subtitle C of Act No. 1-2011, as amended.

(2) ...

(3) ...

(4) ...

(b) ...”

Section 5.- Section 23.0 of Act No. 239-2004, as amended, is hereby amended to read as follows:

“Section 23.0.- Tax Exemption.-

(a) ...

(b) ...

(c) Cooperatives, their subsidiaries or affiliates, as well as the income derived from their activities and operations, all of their assets, capital, reserves, and surplus, and those of their subsidiaries or affiliates shall be exempt from all types of income, property and excise taxes, as well as license fees and any other levy imposed or to be imposed in the future by the Commonwealth of Puerto Rico or any political subdivision thereof, except for the Sales and Use Tax established in Sections 4020.01 and 4020.02, the tax authorized by Section 6080.14, and excise

taxes imposed under Chapter 2 of Subtitle C of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico.”

Section 6.- Section 35.9 of Act No. 239-2004, as amended, is hereby amended to read as follows:

“Section 35.9.- Exemption from Payment of Excise Taxes and the Sales and Use Tax.-

In addition to the exemptions established in this Act, and notwithstanding the provisions of Section 23.0 of this Act, housing cooperatives shall be exempt from the payment of excise taxes and the Sales and Use Tax on any supplies or equipment acquired to render services that are compatible with their objectives and purposes.”

Section 7.- Section 4 of Act No. 91-2006, as amended, known as the “Dedicated Sales Tax Fund Act,” is hereby amended to read as follows:

“Section 4.- Use.-

(a) ...

(b) ...

(c) Amounts deposited into FIA in excess of the amounts necessary to pay the principal of and interest on COFINA bonds, to meet the obligations assumed under bond issue documents or to make any other payment related to other obligations incurred by COFINA, including payments under interest rate swaps agreements, in connection with money taken on loan or bonds issued by said instrumentality for the payment of which the proceeds of such tax has been pledged, may be transferred to the General Fund of the Commonwealth of Puerto Rico to be used as determined by the Secretary of the Treasury and the Director of the Office of Management and Budget in accordance with the current budget. In order to be able to make such transfer, the same shall be authorized by the COFINA Board of Directors, upon certification of the fact that the amounts to be

transferred are not necessary to meet any obligation of COFINA. It shall be provided that any transfer shall be made in accordance with a Joint Resolution to be approved by the Legislative Assembly.

(d) ...”

Section 8.- Paragraphs (1) and (4) of subsection (a) of Section 1021.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1021.02.- Alternate Basic Tax on Individuals.-

(a) Imposition of Alternate Basic Tax on Individuals.-

(1) General Rule.- There shall be imposed, collected, and paid by every individual for each taxable year, in lieu of any other tax imposed under this part, a tax on the net income subject to Alternate Basic Tax, determined according to the following table:

(A) For taxable years beginning before January 1, 2013	
If the net income subject to alternate basic tax is:	The tax shall be:
From \$150,000 but not over \$250,000	10 %
In excess of \$250,000 but not over \$500,000	15 %
In excess of \$500,000	20 %
(B) For taxable years beginning after December 31, 2013	
If the net income subject to alternate basic tax is:	The tax shall be:
From \$150,000 but not over \$250,000	10 %
In excess of \$250,000 but not over \$500,000	15 %
In excess of \$500,000	24 %

plus the distributive share of the special tax on gross income provided in Section 1023.10 of this Code, determined in accordance with Sections 1071.02, 1114.06, or 1115.04, as amended, minus the optional basic credit for taxes paid abroad (whenever the same is greater than the regular tax.)

(2) ...

(3) ...

(4) In the case of married individuals living with their spouses and filing separately, and in the case of married individuals filing jointly who elect the optional tax computation as provided in Section 1021.03, the levels of net income subject to alternate basic tax provided in paragraph (1) for purposes of the alternate basic tax shall be determine separately for each spouse as if he/she were a single taxpayer. It is further provided that, in these cases, the distributive share of the special tax on gross income provided in paragraph (1) of this Section shall be attributed to each spouse on a basis of fifty percent (50%) of the total.

(5) ...”

Section 9.- Subsection (b) is hereby amended and a new subsection (d) is hereby added to Section 1021.04 of Act No. 1-2011, as amended, to read as follows:

“Section 1021.04.- Option to File the Income Tax Return Under the Provisions of the Internal Revenue Code of 1994, as amended.-

(a) ...

(b) The taxpayer shall elect the option provided in this Section by filing the income tax return for the first taxable year beginning after December 31, 2010, and before January 1, 2012. Once such option is elected, the same shall be final and binding for the taxable year in which he/she made such election and for each of the following four years. Notwithstanding the foregoing, a taxpayer who has made an election under paragraph (a) above, may elect to determine his/her tax

liability for the first taxable year beginning after December 31, 2012, under the provisions of this Code. Once the election herein allowed is made, it shall be final and binding for such taxable year and for all taxable years thereafter.

(c) ...

(d) Any individual who has made an election under subsection (a) of this Section and is required to pay an estimated tax shall consider, in computing his/her estimated tax, the special tax on gross income imposed by this Code.”

Section 10.- A new Section 1021.05 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 1021.05.- Special Tax on Self-employment Income of Individuals Engaged in Trade or Business.-

(a) In addition to any other tax imposed under this Code, there shall be imposed, collected, and paid for any taxable year a special two percent (2%)-tax on the gross income derived by an individual from service rendering, except those services rendered by an employee to his/her employer, or trade or business, when the self-employment gross income of such individual is in excess of two hundred thousand dollars (\$200,000), determined as provided in subsection (c) of this Section.

(b) For purposes of this Section, gross income derived from any trade or business consists of net sales minus the cost of the sales, if any.

(c) In determining the gross income subject to the tax imposed by this Section, the gross income derived by the taxpayer from any service rendering business and from any other trade or business carried out by such taxpayer shall be consolidated.

(d) This tax shall apply to individuals that file their tax returns under the provisions of the Internal Revenue Code of 1994, as amended, in accordance with Sections 1021.04 of this Code.

(e) The tax imposed under this Section for any taxable year shall be reported and paid in its entirety by the individual not later than the due date set for filing income tax returns for such taxable year.

(f) The tax imposed under this Section shall not be deducted from any income tax of the individual for the corresponding taxable year or be subject to the estimated tax on individuals established in Section 1061.20.”

Section 11.- Subsections (b), (c), (d), (e), and (f) of Section 1022.02 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1022.02.- Surtax on Corporations.-

(a) ...

(b) ...

(1) For taxable years beginning after December 31, 2010, but before January 1, 2013:

If the net income subject to Surtax is:	The tax shall be:
Not over \$1,750,000	5 percent
In excess of \$1,750,000	\$87,500 plus 10 percent of the excess of \$1,750,000

(2) For taxable years beginning after December 31, 2012:

If the net income subject to Surtax is:	The tax shall be:
Not over \$75,000	5 percent
In excess of \$75,000, but not over \$125,000	\$3,750 plus 15 percent of the excess of \$75,000
In excess of \$125,000, but not over \$175,000	\$11,250 plus 16 percent of the excess of \$125,000
In excess of \$175,000, but not over \$225,000	\$19,250 plus 17 percent of the excess of \$175,000

In excess of \$225,000, but not over \$275,000	\$27,750 plus 18 percent of the excess of \$225,000
In excess of \$275,000	\$36,750 plus 19 percent of the excess of \$275,000

(c) For taxable years beginning before January 1, 2013, in the case of a controlled group of corporations, under Section 1010.04 or affiliated group under Section 1010.05, for purposes of determining the surtax rate established in this subsection applicable to each one of the corporations members of said group, the total sum of the net income subject to normal tax of each one of the corporations member of the controlled group or affiliated group that are required to file an income tax return under this Subtitle shall be taken into account, minus the deduction provided in subsection (d), subject to the limitations of subsection (e).

For taxable years beginning after December 31, 2012, the surtax shall be the amount resulting from the application of the table set forth in paragraph (2) of subsection (b) of this Section to the net income subject to normal tax, minus the deduction provided in subsection (d), subject to the limitations of subsection (e).

(d) For purposes of the surtax, the following deduction shall be granted:

(1) A seven hundred fifty thousand dollar (\$750,000)-deduction for taxable years beginning before January 1, 2013, or

(2) A twenty five thousand dollar (\$25,000)-deduction for taxable years beginning after December 31, 2012, except that, in the case of a corporation to which this Section and Section 1010.04 apply, such deduction shall be equal to the amount determined under subsection (e).

(e) Determination of the Deduction Applicable to Certain Controlled Corporations under this Section.- If a corporation is a component member of a controlled group of corporations on a December 31, then, for purposes of

subsection (d), the deduction allowed under said subsection for such corporation for the taxable year that includes said December 31, shall be an amount equal to:

(1) Seven hundred fifty thousand dollars (\$750,000) for taxable years beginning before January 1, 2013, or

(2) Twenty five thousand dollars (\$25,000) for taxable years beginning after December 31, 2012, divided by the number of corporations that are component members of the group on such December 31, or

(3) If all component members of said controlled group consent (on such date and in such manner as the Secretary may, by regulations, prescribe) to an apportionment plan, such portion of the amount allowed as deduction that is allocated to each member in accordance with the plan.

The sum of the prorated amounts under paragraph (2) among the component members of any controlled group or affiliated group shall not exceed the amount allowed as deduction under said subsection.

(f) Certain Taxable Years of Less than Twelve Months.- If a corporation:

(1) Has a taxable year of less than twelve (12) months that does not include a December 31, and

(2) Is a component member of a controlled group of corporations with respect to such taxable year, then, for purposes of subsection (d), the deduction allowed under such subsection to such corporation for such taxable year shall be equal to the amount allowed as deduction under said subsection, divided by the number of corporations that are component members of such group on the last day of such taxable year. For purposes of this subsection, Section 1010.04 (b) shall apply as if such last day were substituted for December 31.”

Section 12.- Paragraphs (1) and (2) of subsection (b) are hereby amended; paragraph (4) is hereby amended and paragraph (6) is eliminated, thus renumbering current paragraph (7) as (6) in subsection (c); paragraphs (1), (2), and

(4) are amended and a new paragraph (6) is added to subsection (d) of Section 1022.03 of Act No. 1-2011, as amended, to read as follows:

“Section 1022.03.- Alternative Minimum Tax Applicable to Corporations.-

(a) ...

(1) ...

(2) ...

(b) Tentative Minimum Tax.- For purposes of this Section, the term ‘tentative minimum tax’ for the taxable year shall be the greater of:

(1) The sum of the following:

(A) Thirty percent (30%) of so much of the alternative minimum net income excess for the taxable year, reduced by the alternative minimum foreign tax credit for the taxable year; and

(B) Except in the case of a finance business, as defined in Section 1023.10(e), the surtax on gross income set forth in Section 1023.10 of this Code, or the distributive share of the special tax on gross income provided in said Section that has been determined in accordance with Sections 1071.02 and 1114.06; or

(2) The sum of the following:

(A) Twenty percent (20%) of:

(i) The amount of expenses incurred or paid to a related party (as such term is defined in Section 1010.05(b) of this Subtitle) if such payment is not subject to income tax or withholding at the source under this Code in the taxable year during which such expenses were incurred or paid; and/or

(ii) The amount of the transfer of costs or allocation of expenses of a Home Office located outside of Puerto Rico to a branch, if such item was not subject to income tax under Subtitle A of this Code,

(iii) However, the Secretary may evaluate, under such rules and regulations as he/she promulgates and at the request of the taxpayer, the nature of the expenses or costs paid to a related party or home office in order to determine if any of such expenses or costs shall be excluded from the twenty percent (20%)-tax imposed in this paragraph,

(B) The amount determined in applying the percentage provided below to the value of any personal property acquired by the related party and/or the amount determined in applying the percentage provided below to the transfer of personal property from a home office located outside of Puerto Rico to a branch engaged in trade or business in Puerto Rico:

(i) General Rule: two percent (2%);

(ii) Exceptions:

(I) point five percent (.5%) of the purchase or transfer of property that is subject to the provisions of Subtitle E of this Code;

(II) point five percent (.5%) of the purchase or transfer of property that is subject to the provisions of Sections 3020.06 and 3020.07 of Subtitle C of this Code; and

(III) one point five percent (1.5%) of the purchase or transfer of property that is subject to the provisions of Section 3020.08 of Subtitle C of this Code, and

(C) Except in the case of a finance business, as defined in Section 1023.10(e), the surtax on gross income provided in Section 1023.10 of this Code, or the distributive share of the special tax on gross income provided in said Section that has been determined in accordance with Section 1071.02 or 1114.06.

(c) Definitions.- For purposes of this Section:

(1) ...

(2) ...

(3) ...

(4) Personal Property.- The term 'personal property' means tangible personal property used or to be used in connection with the operation of a trade or business in Puerto Rico, except for raw material and intermediate products to be used by the acquirer in manufacturing process in Puerto Rico.

(5) ...

(6) Gross Receipts.- The term 'gross receipts' shall mean the total amount earned or accumulated from the sale of property held for sale in the ordinary course of a trade or business or the income derived from all other sources.

(d) Exceptions for the Tentative Minimum Tax in Subsection (b)(2)(B) of this Section.- The tentative minimum tax imposed by subsection (b)(2)(B) of this Section shall not apply:

(1) When the acquirer of the personal property has gross receipts derived from the exploitation of a trade or business in Puerto Rico of less than ten million dollars (\$10,000,000) for any of the three preceding taxable years or that portion of such period in which the acquirer is in existence.

(2) To the personal property acquired for tax-exempt operations under a tax exemption decree under Act No. 73-2008, as amended, or any previous or subsequent similar law, and that is used in such tax-exempt operations.

(3) ...

(4) When the Secretary determines that the value of the personal property purchased by the taxpayer from the related party or transferred by a home office located outside of Puerto Rico to a branch engaged in trade or business in Puerto Rico, is equal or substantially similar to the value for which such related party sells such property to an unrelated party. Provided, that when the foregoing is established to the satisfaction of the Secretary, he/she may fix a tax rate lower than the rate provided in subparagraph (B) of paragraph (2) of subsection (b) of this

Section, which shall never be less than point two percent (.2%), except for property subject to the provisions of Sections 3020.06 and 3020.07 of Subtitle C of this Code, in which case the Secretary may fix an income tax rate lower than point two percent (.2%).

The Secretary shall prescribe by regulations the documents and conditions to be met, including an agreement between the seller and the purchaser that allows the Secretary to audit the price of the items acquired from the third unrelated party, which shall be filed by the taxpayer to qualify under this exception. However, it shall be necessary to submit a transfer pricing study.

(5) ...

(6) In the case of the acquisition or transfer of tangible personal property, if the seller is subject to income tax in Puerto Rico in such transaction.

(e) ...”

Section 13.- Paragraph (6) of subsection (a), subsection (b), and subparagraph (A) of paragraph (1) of subsection (d) of Section 1022.04 of Act No. 1-2011, as amended, are hereby amended to read as follows:

“Section 1022.04.- Adjustments in Computing Alternative Minimum Net Income.-

(a) Adjustments.- In determining the amount of the alternative minimum net income for any taxable year, the following treatment shall apply, in lieu of the treatment applicable for purposes of determining the regular tax.

(1) ...

(6) Deduction for Expenses for Services Rendered Outside of Puerto Rico.-

(A) For taxable years beginning before January 1, 2013.- In determining the alternative minimum tax, no deduction shall be allowed for expenses incurred or paid to a related party, as such term is defined in Section

1091.01(a)(3) or 1092.01(a)(3) of this Subtitle, whichever applies, for services rendered outside of Puerto Rico, if such payment for services are not subject to income taxes under this Code.

(B) For taxable years beginning after December 31, 2012.- In determining the alternative minimum tax, no adjustment shall be allowed on account of this.

(b) Adjustment for Excess Net Income on the Books.- The alternative minimum net income shall be increased by sixty percent (60%) of the amount, if any, by which the adjusted net income on the books exceeds the alternative minimum net income, determined without considering the increase provided herein, nor the deduction for net operating loss allowed for purposes of the alternative tax. For purposes of this subsection, the following is provided:

(1) ...

(c) ...

(d) Definition of Net Operating Loss Deduction for Determining the Alternative Tax.-

(1) In General.- For purposes of subsection (a)(5) of this Section, the term ‘net operating loss deduction for determining the alternative tax’ means the net operating loss deduction allowed under Section 1033.14, except that-

(A) The amount of such deduction shall not exceed eighty percent (80%) of the alternative minimum net income, determined without regard to such deduction; and

(B) ...

(e) ...”

Section 14.- Subsections (c) and (d) are hereby amended and a new subsection (e) is hereby added to Section 1022.06 of Act No. 1-2011, as amended, to read as follows:

“Section 1022.06.- Election to File under the Provisions of the Internal Revenue Code of 1994, as amended.-

(a) ...

(c) The taxpayer shall elect the option provided in this Section by filing the income tax return for the first taxable year beginning after December 31, 2010, and before January 1, 2012. Once such election is made, the same shall be final and binding for the taxable year in which such election was made and for each one of the following four (4) years. Notwithstanding the foregoing, a taxpayer that has made an election under subsection (a) above, may elect to determine his/her tax liability for the first taxable year beginning after December 31, 2012, under the provisions of this Code. Once the election allowed herein is made, it shall be final and binding for such taxable year and for all subsequent taxable years.

(d) Special Rule for Partnerships, Special Partnerships, Limited Liability Companies, and Corporations of Individuals.- In the case of a partnership, special partnership, limited liability company, and corporation of individuals, the election to determine its tax liability and file the tax return corresponding to its first taxable year beginning after December 31, 2010 and before January 1, 2012, and during the following 4 subsequent years, based on the pertinent provisions of Act No. 120-1994, as amended, known as the ‘Internal Revenue Code of 1994,’ in effect as of December 31, 2010, shall be made by the entity, as well as by all of its stockholders, partners, or members. Once such election is made, the same shall be final and binding, pursuant to the provisions of subsection (c) of this Section, for the entity and its stockholders, partners, or members. Notwithstanding the foregoing, a taxpayer that has made an election under subsection (b) of this Section, may elect to determine his/her tax liability for the first taxable year beginning after December 31, 2012, under the provisions of this Code. Once the

election allowed herein is made, it shall be final and binding for such taxable year and for all subsequent taxable years

(e) Any person who has made an election under this Section and is required to pay an estimated tax shall consider, in computing such estimated tax, the special tax on gross income imposed under this Code.”

Section 15.- A new Section 1023.10 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 1023.10.- Imposition of Surtax on Gross Income.-

(a) Applicable Tax.-

(1) General Rule.-

(A) In the case of any corporation engaged in trade or business in Puerto Rico, except for financial institutions as defined in this Section and entities subject to Section 1123(f) of the Puerto Rico Internal Revenue Code of 1994, there shall be imposed, collected, and paid, for each taxable year, a surtax on its Gross Income, as defined in subsection (e) of this Section, which shall be determined by applying the rates established below and shall only be part of the computation of the tax imposed under subsection (a) of Section 1022.03:

If the gross income is:	The rate shall be:
From \$1,000,000, but not over \$3,000,000	.20%
In excess of \$3,000,000, but not over \$300,000,000	.50%
In excess of \$300,000,000, but not over \$600,000,000	.70%
In excess of \$600,000,000, but not over \$1,500,000,000	.80%
In excess of \$1,500,000,000	.85%

(B) In the case of an entity that pays taxes as a partnership, special partnership, and corporation of individuals, except for a financial institution, as defined in this Section, there shall be imposed, collected, and paid, for any taxable year, a surtax on its Gross Income, as defined in subsection (e) of this Section, which shall be determined by applying the rates established below and shall only be part of the computation of the tax imposed under subsection (a) of Section 1021.02 or subsection (a) of Section 1022.03:

If the gross income is:	The rate shall be:
From \$1,000,000, but not over \$3,000,000	.20%
In excess of \$3,000,000, but not over \$300,000,000	.50%
In excess of \$300,000,000, but not over \$600,000,000	.70%
In excess of \$600,000,000, but not over \$1,500,000,000	.80%
In excess of \$1,500,000,000	.85%

(2) Finance Business.-

(A) Tax.- In the case of any financial institution, as defined in this Section, there shall be imposed, collected, and paid, for any taxable year, a one percent (1%)-surtax on its gross income.

(B) Credit for Special Tax on Gross Income Paid.- Any financial institution engaged in trade or business in Puerto Rico may credit against the income tax or alternative minimum tax payable for the corresponding taxable year, if any, determined for the corresponding taxable year (including the tax determined under the provisions of the Internal Revenue Code of 1994, as amended, in accordance with Section 1022.06 of this Code), subject to the

limitations set forth below, an amount equal to point five percent (0.5%) of its gross income for the corresponding taxable year.

Any amount of the credit available under this Section for any taxable year that has not been used due to the limitations set forth herein shall not be reimbursed and shall only be available to be used in future taxable years subject to the provisions of this paragraph.

(3) Exception.- The provisions of this Section shall not apply to:

(A) A person operating under the provisions of Act No. 73 of May 28, 2008, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or any previous or subsequent similar law, or under the provisions of Act No. 74 of July 10, 2010, known as the ‘Puerto Rico Tourism Development Act of 2010’; Act No. 83 of July 19, 2010, Act No. 20 of January 17, 2012, or any previous or subsequent similar law granting a tax exemption with respect to income derived from operations, covered under a tax exemption decree, resolution or grant conferred under said laws;

(B) A person operating a *bona fide* agricultural business to the extent the income derived from such activity is allowed as a deduction under the provisions of Section 1033.12 or is covered under the provisions of Act No. 225 of December 1, 1996[sic], known as the ‘Agricultural Tax Incentives Act of Puerto Rico; and

(C) A nonprofit entity listed in Section 1101.01.

(D) The premiums earned from Medicare Advantage, Medicaid, Mi Salud, Inc., and annuities.

(4) Dispensation.- The Secretary may reduce, under the rules and regulations promulgated by him/her, the applicable tax rate, but never below point two percent (.2%), to any taxpayer to whom the tax imposed under this Section applies, except for financial institutions (as defined herein). The taxpayer shall

establish to the satisfaction of the Secretary, or as determined by the Secretary him/herself, that the tax imposed under this Section would impose an undue financial hardship or be prejudicial to the taxpayer, given that such tax represents a significant amount if compared to the its gross margin, as such term is defined herein. In order for the taxpayer's request to be evaluated, he/she must file the Agreed-upon Procedures prepared by a Certified Public Accountant who holds a license in effect in Puerto Rico and is enrolled in a peer review program.

(b) The tax imposed under this Section shall be part of the income tax corresponding to the taxable year, including the tax determined in accordance with Sections 1021.04 and 1022.06 of this Code, and shall also include:

(1) The estimated tax payment requirement established in Sections 1061.20, 1061.21, and 1061.23 of this Code or under the corresponding provisions of the Internal Revenue Code of 1994, as amended, to the extent applicable to persons who elected to file under Sections 1021.04 and 1022.06 of this Code, or

(2) The estimated income tax payment requirement attributable to the distributive share of a partner in a special partnership as required under Section 1062.04, of a partner in a partnership as required under Section 1062.07 or the proportional share of income in a corporation of individuals as required in Section 1062.05, or under the applicable provisions of the Internal Revenue Code of 1994, as amended, and the same shall be reported and paid in full not later than the due date fixed to file the income tax return for the taxable year.

(c) Rules Applicable to Controlled Groups of Corporations or Affiliated Group.-

(1) General Rule.- In the case of a controlled group of corporations under Section 1010.04, or affiliated group under Section 1010.05, for purposes of determining the rate of the surtax on the gross income applicable to each one of the corporations members of such group, the total amount of the gross income of each

one of the persons member of a controlled group of corporations or affiliated group that is required to pay the tax imposed under this Section, shall be taken into account.

(2) Exception.- In the event that a controlled group or affiliated group includes one or more financial institutions, such institutions shall be excluded for the aforementioned purposes and the tax imposed under this Section shall be determined separately for each one of them.

(d) Credit for Special Tax on Gross Income Paid.- Any financial institution engaged in trade or business in Puerto Rico may credit against the income tax or alternative minimum tax payable for the corresponding taxable year, if any, determined for the corresponding taxable year (including the tax determined under the provisions of the Internal Revenue Code of 1994, as amended, in accordance with Sections 1021.04 and 1022.06 of this Code), subject to the limitations set forth below, an amount equal to point five percent (0.5%) of its gross income for the corresponding taxable year.

(1) Limitations.-

(A) Use.- The credit determined as provided above may be used:

(i) Entities filing as a corporation.- against the income tax or alternative minimum tax payable for the corresponding taxable year, if any,

(ii) Individuals.- against the income tax or the alternate basic tax payable, if any.

(B) Carryover.- any amount of the credit available under this Section, for any taxable year, that has not been used due to the limitations set forth herein, shall not be reimbursed and shall only be available to be used in future taxable years subject to the provisions of this paragraph.

(e) Definitions.- For purposes of the tax imposed under this Section, the following terms shall have the meaning stated below:

(1) Gross Income.-

(A) Insurance Companies.- Gross income in the case of insurance companies shall be the following:

(i) Life Insurance Companies.- Gross income in the case of life insurance companies shall be that determined as provided in Section 1111.02 of this Code,

(ii) Insurance Companies other than Life or Mutual Insurance Companies.- Gross income in the case of insurance companies other than life or mutual insurance companies shall be that determined as provided in Sections 1111.07(c)(1), 1111.07(c)(3), 1111.07(c)(4), and 1111.10 of this Code, and

(iii) Mutual Insurance Companies other than Life Insurance Companies.- Gross income in the case of mutual insurance companies other than life insurance companies shall be that determined as provided in Section 1111.11 of this Code.

(B) Gas Stations.- In the case of persons engaged in the operations of gas stations, gross income shall be the number of gallons of gasoline (including diesel) sold, multiplied by the maximum gross profit allowed by law, plus the volume of sale of other products and services.

(C) Brokers, Dealers, Representative Agents, Advertising Agencies, and Contractors.- In the case of brokers, dealers, representative agents, and advertising agencies, gross income shall be understood as the gross commissions amount, without deducting any cost item. In the case of contractors, even though they have a cost plus contract, gross income shall be the gross contract amount without deducting any cost item, except the cost of machinery and

equipment that the contractor is required to acquire to be permanently incorporated into the project that does not constitute a volume of business factor for the contractor, without including in this exception materials, home appliances, or equipment that generally is part of the construction project.

(D) Distributors and Dealers of New Automobiles for Sale.- In the case of distributors and dealers engaged in the sale of automobiles (as such term is defined in Section 3020.08(b)(1) of this Code), gross income shall be understood as that established in Section 1031.01 of this Code, minus the gross income exceptions provided in Section 1031.02 of this Code. Provided, however, that the total amount generated from the sale of such new automobiles for sale shall be determine without deducting the cost thereof, but deducting from the gross amount the excise taxes paid for new automobiles sold during the taxable year.

(E) Other Taxpayers.- In the case of any other taxpayer other than an insurance company, gas station, broker, dealer, representative agent, advertising agency, and contractor, gross income shall be that established in Section 1031.01 of this Code, minus the gross income exceptions provided in Section 1031.02 of this Code. Provided, that in the case of earnings or income derived from the production or sale of property in the ordinary course of business, whether personal or real property, gross income shall be that generated from the sale of property or goods without deducting the cost of the property or goods sold. The Secretary of the Treasury is hereby authorized to modify the computation of the gross income of a finance business for purposes of this Section.

(2) Gross Margin.- means net sales minus cost of goods sold.

(3) Finance Business.- means any trade or business consisting of services rendered or transactions carried out by commercial banks, savings and loans associations, mutual or savings banks, financing companies, investment companies, brokerage firms, collection agencies, and any other activity similar to

the aforementioned, carried out by any trade or business. The term ‘finance business’ shall not include activities related to the investment made by persons of their own funds, if such investment does not constitute the principal business activity.

(4) Non finance Business.- means any trade or business other than a finance business, as defined above.”

Section 16.- Paragraph (12) of subsection (b) of Section 1031.01 of Act No. 1-2011 is hereby amended to read as follows:

“Section 1031.01.- Gross Income.-

(a) ...

(b) ...

(1) ...

(12) Prizes from the Sales and Use Tax Oversight Plan.- The amounts or items, of any kind, received as prizes from drawings held as part of the Sales and Use Tax Oversight Program.”

Section 17.- Subparagraphs (A) and (B) are hereby amended; a new subparagraph (C) is hereby added; and current subparagraph (C) is hereby renumbered as (D) in paragraph (1) of subsection (b); and subsection (c) of Section 1033.14 of Act No. 1-2011, is hereby amended to read as follows:

“Section 1033.14.- Net Operating Loss Deduction.-

(a) ...

(b) Amount of Carryovers.-

(1) Net Operating Loss Carryovers.-

(A) If for any taxable year beginning before January 1, 2005, the taxpayer has a net operating loss, the same shall be a net operating loss to be carried over to each of the following seven (7) taxable years.

(B) In the case of net operating losses incurred in taxable years beginning after December 31, 2004, and before January 1, 2013, the carryover period shall be twelve (12) years.

(C) In the case of net operating losses incurred in taxable years beginning after December 31, 2012, the carryover period shall be ten (10) years.

(D) The amount to be carried over to each one of said following taxable years shall be the excess, if any, of the amount of such net operating loss over the sum of: (i) the net income for each one of the taxable years beginning before January 1, 2013, and (ii) ninety percent (90%) of the net income for taxable years after December 31, 2012, involved, computing such net income:

(i) ...

(ii) ...

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(c) Amount of Net Operating Loss Deduction.- The amount of the net operating loss deduction shall be the sum of the net operating loss carried over to the taxable year reduced by the amount, if any, by which the net income computed with the exceptions and limitations provided in subsection (d)(1)(2)(3), and (5) exceeds, in the case of a taxpayer other than a corporation, the net income computed without such deduction or, in the case of a corporation, the normal-tax net income computed without said deduction.

In the case of a taxpayer filing as a corporation, the net operating loss deduction (computed as provided in the above paragraph) shall not exceed ninety percent (90%) of the net income subject to normal tax.

(d) ...

(e) ...”

Section 18.- Subparagraph (C) of paragraph (1) of subsection (a) of Section 1033.15 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1033.15.- Deductions Applicable to Taxpayers who are Individuals.-

(a) For purposes of this Section, a taxpayer may claim the following items as deduction:

(1) Deduction for Interest Paid or Accrued on Residential Property.-

(A) ...

(B) ...

(C) Limitation:

(i) There shall be allowed as a deduction under subparagraphs (A) and (B), the total amount of the interest paid up to a maximum of \$35,000; provided, that said amount does not exceed the greater of:

(I) Thirty percent (30%) of the adjusted gross income of the taxpayer, as modified pursuant to clause (ii) of the taxable year for which the deduction is claimed; or

(II) Thirty percent (30%) of the adjusted gross income of the taxpayer, as modified pursuant to clause (ii) for any of the three (3) taxable years preceding the year in which the deduction is claimed.

(ii) ...

(iii) ...

(D) ...”

Section 19.- Paragraphs (14) and (15) are hereby amended, and paragraphs (16), (17), and (18) are hereby added to subsection (a) of Section 1033.17 of Act No. 1-2011, as amended, to read as follows:

“Section 1033.17.- Non-deductible Items.-

(a) General Rule.- In computing the net income, in no case shall deductions be allowed with respect to:

(1) ...

(14) Expenses related to the use, maintenance, and depreciation of residential property located outside of Puerto Rico, except in the case of business exclusively engaged in leasing properties to unrelated parties. To be entitled to this deduction for the use of residential property located outside of Puerto Rico, said businesses shall derive more than eighty percent (80%) of their total income from the leasing activity, except for income derived from leasing property to related parties. For purposes of this paragraph, the term ‘related party’ shall have the meaning provided in Section 1010.05;

(15) Except as provided in subparagraph (A) of paragraph (3) of subsection (a) of Section 1033.07, expenses related to the ownership, use, maintenance, and depreciation of automobiles;

(16) In the case of entities filing under Chapter 7 or Subchapters D or E of Chapter 11, for purposes of determining the item specified in:

(A) paragraph (10) of subsection (a) of Section 1071.02;

(B) paragraph (10) of subsection (a) of Section 1114.06; or

(C) paragraph (10) of subsection (b) of Section 1115.04, no deduction shall be allowed with respect to expenses incurred or paid to a partner, stockholder or member who owns fifty percent (50%) or more of partnership interest, corporate stock, or membership units in a limited liability company, if

such payment is not subject to income taxes or withholding at the source under this Code during the taxable year in which they are incurred or paid;

(D) This Provision shall not apply to entities operating under the provisions of Act No. 73-2008, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or any previous or subsequent similar law, or under the provisions of Act No. 74-2010, known as the ‘Puerto Rico Tourism Development Act of 2010’; Act No. 83-2010 and Act No. 20-2010, or any previous or subsequent similar law or any other special law granting a tax exemption with respect to income derived from operations, covered under a tax exemption decree, resolution, or grant conferred under said laws;

(E) At the request of the entity, the Secretary may evaluate, under the rules and regulations he/she promulgates, the nature of the expenses or costs paid to a partnership [sic], stockholder, or member described in the above paragraph, in order to determine if any of such expenses or costs shall be excluded from the provisions of this paragraph.

(17) Fifty-one percent (51%) of the expenses incurred or paid to:

(A) A related party (as such term is defined in Section 1010.05(b) of this Subtitle) that does not conduct business in Puerto Rico, if such payment is not subject to income taxes or withholding at the source under this Code during the taxable year in which they were incurred or paid, or

(B) A home office located outside of Puerto Rico, by a foreign corporation engaged in trade or business in Puerto Rico through a branch;

(C) This provision shall not apply to a person operating under the provisions of Act No. 73 of May 28, 2008, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or any previous or subsequent similar law, or under the provisions of Act No. 74 of July 10, 2010, known as the ‘Puerto Rico Tourism Development Act of 2010’; Act No. 83 of July 19, 2010, and

Act No. 20 of January 17, 2012, or any previous or subsequent similar law or any other special law granting a tax exemption with respect to income derived from operations, covered under a tax exemption decree, resolution, or grant conferred under said laws;

(D) At the request of the taxpayer, the Secretary may evaluate, under the rules and regulations he/she promulgates, the nature of the expenses or costs paid to a related party or home office in order to determine if any of such expenses or costs shall be excluded from the provisions of this paragraph.

(18) The special tax on gross income imposed under this Code.

(b) ...”

Section 20.- Paragraph (1) of subsection (u) of Section 1034.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1034.04.- Recognition of Gain or Loss.-

(a) ...

(u) Limitation on Net Operating Loss Carryforwards Following Ownership Change.-

(1) General Rule.- The amount of the net income of any new loss corporation for any post-change year which may be offset by pre-change losses shall be equal to ninety percent (90%) of such net income and shall not exceed the limitation of paragraph (2) for such year.

(2) ...”

Section 21.- Section 1051.10 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 1051.10.- Reissue of Tax Credit Moratorium.-

(a) Granted or Purchased Credits.- Notwithstanding the provisions of this Subtitle and of any other special laws, any natural or juridical person that, before June 30, 2013, has purchased or has been granted any credit subject to moratorium

listed in subsection (b) of this Section may use the same against the income taxes imposed under this Subtitle for each one of the taxable years beginning after December 31, 2012 and before January 1, 2016 only up to the amount provided in Section 1051.12 of this Subtitle. Provided, that during the moratorium period established herein, any person that has been granted a credit subject to the moratorium provided herein may sell or assign the same and the purchaser or assignee shall be subject to the rules established in Section 1051.12 of this Code. When such credits are purchased, attesting evidence of the date of acquisition of such credit shall be filed along with the income tax return corresponding to the taxable year in which the credit is claimed. Such evidence may consist of a copy of the sworn statement filed with the Department of the Treasury at the time of purchase of the corresponding credit.

(b) Credits Subject to Moratorium.- Credits subject to moratorium shall be those granted under the following provisions:

(1) Subsection (a) of Section 4 of Act No. 159-2011, known as the ‘Act to Provide Tax Incentives for Investments in Solid Waste Reduction, Disposal and/or Treatment Facilities’ and repealed subsection (b) of Section 21 of Act No. 70 of June 23, 1978, as amended, known as the ‘Puerto Rico Solid Waste Authority Act’;

(2) Subsection (a) of Section 14 of Act No. 46-2000, as amended, known as the ‘Puerto Rico Investment Capital Fund Act of 1999’;

(3) Subsection (a) of Section 11 of Act No. 178-2000, as amended, known as the ‘Special Act for the Creation of the Santurce Theater District’;

(4) Subsection (a) of Section 17 of Act No. 183-2001, as amended, known as the ‘Puerto Rico Conservation Easement Act’; however, in the case of credits granted under paragraph (4) of subsection (a) of Section 1051.11 of this

Subtitle, the rules established in subsection (a) of Section 1051.12 of this Code shall apply.

(5) Subsections (E) and (F) of Section 4.03 and Section 4.04 of Act No. 212-2002, as amended, known as the ‘Urban Centers Revitalization Act’; however, in the case of credits granted under subparagraph (A) of paragraph (5) of subsection (a) of Section 1051.11 of this Subtitle, the moratorium shall apply in the following manner:

(A) Credits granted during Fiscal Year 2013-14; only up to fifty percent (50%) of such credit may be claimed for taxable years beginning after December 31, 2013, and before January 1, 2015; likewise, up to fifty percent (50%) may be claimed in taxable years beginning after December 31, 2014, and before January 1, 2016; and any balance of the credit may be claimed in subsequent taxable years,

(B) Credits granted during Fiscal Year 2014-15; only up to fifty percent (50%) of such credit may be claimed for taxable years beginning after December 31, 2014, and before January 1, 2016; likewise, up to fifty percent (50%) may be claimed in taxable years beginning after December 31, 2015, and before January 1, 2017; and any balance of the credit may be claimed in subsequent taxable years, and

(C) Credits granted during Fiscal Year 2015-16; only up to fifty percent (50%) of such credit may be claimed for taxable years beginning after December 31, 2015, and before January 1, 2017; likewise, up to fifty percent (50%) may be claimed in taxable years beginning after December 31, 2016, and before January 1, 2018; and any balance of the credit may be claimed in subsequent taxable years;

(6) Subsection (A)[sic] of Section 3 of Act No. 140-2001, as amended, known as the ‘Tax Credits for Investment in New Construction and Rehabilitation of Affordable Housing Act,’ except for credits granted over affordable housing projects or pending final approval for the sale or rental of facilities to elderly persons who meet the following requirements: (1) that they hold a qualification certificate and (2) they have number of credits reserved.

(7) Subsections (a) and (b) of Section 4 of Act No. 98-2001, as amended, known as the ‘Tax Credits for Investment in Housing Infrastructure Act,’ provided, that all pending credits for projects started before March 9, 2009, may be granted; however, no credit shall be granted under said Act after July 1, 2013.

(8) Section 1051.09 of this Subtitle.

(c) Any expiration date or period established to claim any of the credits listed in subsection (b) of this Section shall be deemed to be suspended during the moratorium period and shall resume after January 1, 2016.

(d) Information Return.- In order to claim any of the credits listed in subsection (b) of this Section for taxable years beginning on or after January 1, 2016, and any other credit granted under Act No. 78-1993, as amended, Act No. 74-2010, as amended, Act No. 362-1999, as amended, Sections 5(b) and 5A of Act No. 135-1997, as amended, Sections 5 and 6 of Act No. 73-2008, as amended, and Sections 4050.10, 1051.07, 1052.03, and 1052.04 of this Subtitle, in taxable years beginning on or after January 1, 2013, it shall be an essential requirement for the holder of the credit to file with the Secretary on or before July 31, 2013, an information return under penalty of perjury, in the form and manner prescribed by the Secretary, stating the amount of previously granted credits as of June 30, 2013. Credits subject to moratorium, as well as those that are not subject thereto and that are not included in such information return, may not be claimed unless the

Secretary of the Treasury determines that there was a reasonable cause to exclude them from the information return. The Secretary of the Treasury shall make the necessary efforts through the communications media to comply with this Section.”

Section 22.- A new Section 1051.11 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 1051.11.- Reissue of Moratorium to Tax Credits Granted under Certain Special Laws.-

(a) No tax credits shall be granted after the effective date of this Act, and for taxable years beginning after December 31, 2012, and before January 1, 2016; thus, no agency, public corporation, instrumentality, municipality, or entity of the Commonwealth of Puerto Rico may evaluate, process, grant, or extend any tax credit or authorize any project or transaction that results or may result in the generation of tax credits under the provisions stated below:

(1) Subsection (a) of Section 4 of Act No. 159-2011, known as the ‘Act to Provide Tax Incentives for Investments in Solid Waste Reduction, Disposal, and/or Treatment Facilities’;

(2) Subsection (a) of Section 14 of Act No. 46-2000, as amended, known as the ‘Puerto Rico Investment Capital Fund Act of 1999’;

(3) Subsection (a) of Section 11 of Act No. 178-2000, as amended, known as the ‘Special Act for the Creation of the Santurce Theater District’;

(4) Subsection (a) of Section 17 of Act No. 183-2001, as amended, known as the ‘Puerto Rico Conservation Easement Act’; however, during fiscal years 2013-14, 2014-15, and 2015-16, the tax credits covered under the provisions of this paragraph may be granted up to the amount of ten million dollars (\$10,000,000) for each year;

(5) Subsections (E) and (F) of Section 4.03 and Section 4.04 of Act No. 212-2002, as amended, known as the ‘Urban Centers Revitalization Act’;

except for any construction project started as of July 1, 2013, and any project under this Act subject to the provisions of subparagraph (A) below, or tourist activity projects, as such term is defined in Act No. 78-1993, as amended, known as the ‘Tourist Development Act of 1993’; or affordable housing development projects for sale or rental, or elderly facilities, as well as any other project subject to the following:

(A) Notwithstanding the moratorium established in this paragraph, during fiscal years 2013-14, 2014-15, and 2015-16, the tax credits covered under the provisions of this paragraph may be granted to those projects with certificate of eligibility filed with the Department of the Treasury as of the approval of this Act, up to forty million dollars (\$40,000,000) for each year; provided, that no tax credit granted to a project shall exceed fifteen million dollars (\$15,000,000).

Municipalities may only evaluate and grant certificates of compliance to projects with a certificate of eligibility filed with the Department of the Treasury as of the approval of this Act, subject to the availability established in this subparagraph (A);

(6) Subsection (a) of Section 3 of Act No. 140-2001, as amended, known as the ‘Tax Credits for Investment in New Construction and Rehabilitation Affordable Housing Act’;

(7) Subsections (a) and (b) of Section 4 of Act No. 98-2001, as amended, known as the ‘Tax Credits for Investment in Housing Infrastructure Act.’ However, it is hereby established that tax credits may be granted to projects started before March 9, 2009, during taxable years 2013-14, 2014-15, and 2015-16, up to five million dollars (\$5,000,000) for each year; and

(8) Section 1051.09 of this Subtitle.

(b) Exception.- The provisions of subsection (a) shall not apply to tax credit requests filed before June 30, 2013 with the Department of the Treasury or any other agency, public corporation, instrumentality, or entity of the Commonwealth of Puerto Rico granting such tax credits; provided that all the requirements set forth in the 'Internal Revenue Code for a New Puerto Rico,' as amended, in any law applicable to such credits, and in any regulations, circular letter, or other general administrative determination or communication governing such requests are fully met, so that the Secretary of the Treasury, or such agency, public corporation, instrumentality, or entity of the Commonwealth of Puerto Rico granting said tax credits may be able to recognize such credits without requiring any additional document. Otherwise, the provisions of subsection (a) shall apply.

(c) Credits that have been granted, awarded or otherwise recognized under the exception provided in subsection (b) of this Section may be sold or assigned and the purchaser or assignee shall be subject to the rules established in Section 1051.12 of this Code.

(d) The Secretary of the Treasury is hereby directed to:

(1) Establish a Register of Tax Credits which shall include all the information gathered in accordance with subsection (c) of Section 1051.10 of this Subtitle, before December 1, 2013; and

(2) Conduct a thorough analysis of any tax credit granting laws so as to evaluate the impact thereof on the revenues of the treasury and their effectiveness in generating economic activity, and submit to the Legislative Assembly a report on this matter with his/her recommendations.”

Section 23.- A new Section 1051.12 is hereby added to Act No. 1-2011, as amended, to read as follows:

“Section 1051.12.- Rules for the Use of Tax Credits Subject to Moratorium under Sections 1051.10 and 1051.11.-

(a) Any natural or juridical person that has purchased or has been assigned any of the credits subject to moratorium before June 30, 2013, or under subsection (b) of Section 1051.11 of this Subtitle, may claim the same against the taxes imposed under this Subtitle during the moratorium period only up to the amount set forth in the provisions under which the credit was granted but shall never reduce the taxes imposed under this Subtitle by more than fifty percent (50%).”

Section 24.- Subparagraph (A) of paragraph (1) of subsection (b) of Section 1061.20 of Act No. 1-2011 is hereby amended to read as follows:

“Section 1061.20.- Estimated Tax Payment Requirement for Individuals.-

(a) ...

(b) Computation of the Estimated Tax and Information Required by the Secretary.-

(1) The estimated tax required under subsection (a) shall be the excess of:

(A) the amount that the individual estimates to be the amount of the tax under this Subtitle for the taxable year, including the alternate basic tax and, for taxable years beginning before January 1, 2015, the gradual adjustment, among other taxes, over

(B) ...

(2) ...

(c) ...”

Section 25.- Paragraph (1) of subsection (a) of Section 1061.21 of Act No. 1-2011 is hereby amended to read as follows:

“Section 1061.21.- Payment of Estimated Tax by Individuals.-

(a) Due Date for Payment of Estimated Tax.-

The estimated tax shall be paid as follows:

(1) The due date of the first installment of the estimated tax required under Section 1061.20 of this Subtitle is the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) month of the taxable year, except as provided in paragraph (2) of this subsection. In this case, the estimated tax shall be paid in four (4) equal installments. The second (2<sup>nd</sup>) installment shall be paid the fifteenth (15<sup>th</sup>) day of the sixth (6<sup>th</sup>) month of the taxable year. The third (3<sup>rd</sup>) installment shall be paid the fifteenth (15<sup>th</sup>) day of the ninth (9<sup>th</sup>) month of the taxable year. The fourth (4<sup>th</sup>) installment shall be paid the fifteenth (15<sup>th</sup>) day of the first (1<sup>st</sup>) month of the following taxable year. Provided, that the first year in which the special tax on gross income takes effect, such payments shall be made on the remaining installments.

(2) ...

(b) ...”

Section 26.- Subsections (a) and (c) of Section 1061.23 of Act No. 1-2011 are hereby amended to read as follows:

“Section 1061.23.- Estimated Tax Payment by Corporations.-

(a) Requirement to Pay the Estimated Tax.- Every corporation engaged in a trade or business in Puerto Rico, and subject to taxation under the provisions of this Subtitle, shall pay an estimated tax for the taxable year on the date provided in subsection (c), including the alternative minimum tax.

(b) ...

(c) Due Date of the Estimated Tax Payments.-

(1) General Rule.- The due date for the first installment of the estimated tax required under subsection (a) shall be the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) month of the taxable year, except as provided in paragraph (2) of this subsection. In this case, the estimated tax shall be paid in four equal installments. The second installment shall be paid on the fifteenth (15<sup>th</sup>) day of the sixth (6<sup>th</sup>) month of the taxable year. The third installment shall be paid on the fifteenth (15<sup>th</sup>) day of the ninth (9<sup>th</sup>) month of the taxable year. The fourth installment shall be paid on the fifteenth (15<sup>th</sup>) day of the twelfth (12<sup>th</sup>) month of the taxable year. Provided, that the first year in which the special tax on gross income takes effect, such payments shall be made on the remaining installments.

(2) ...

(d) ...”

Section 27.- Subsection (a) of Section 1062.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1062.04.- Required Estimated Income Tax Payment Attributable to the Distributive Share of a Resident Partner or a Nonresident U. S. Citizen Partner in a Special Partnership.-

(a) Requirement to Withhold.- The partner to whom the administration of the special partnership has been delegated, or any other persons to whom the obligation to furnish the report described in subsection (b) of Section 1061.06 to the partners has been delegated, shall determine and remit an amount equal to: (1) thirty percent (30%) of the estimated amount of the distributive share in the income of the special partnership of a partner who is a resident individual, nonresident United States citizen, or a Puerto Rico resident estate or trust and, in the case of a domestic or resident foreign corporation, an amount equal to thirty percent (30%) of the item described in Section 1114.06(a)(10) minus, (2) the

amount withheld pursuant to Sections 1062.02 and 1062.03, or the distributive share in the surtax on gross income imposed in Section 1023.10, whichever is greater, during those periods specified in subsection (b).

(b) ...”

Section 28.- Subsection (a) of Section 1062.05 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1062.05.- Required Estimated Income Tax Payment on the Distributive Share in the Income of a Corporation of Individuals.-

(a) Requirement to Withhold.- The corporation, or any other persons to whom the obligation to furnish the report described in subsection (b) of Section 1061.07 to shareholders has been delegated, shall determine and remit an amount equal to: (1) thirty percent (30%) of the estimated amount of the distributive share of a shareholder in the income of a corporation of individuals described in Section 1115.04(b)(10) minus, (2) the amount withheld pursuant to Sections 1062.02 and 1062.03, or the distributive share in the surtax on gross income imposed in Section 1023.10, whichever is greater, during those periods specified in subsection (b).

(b) ...”

Section 29.- Paragraph (1) of subsection (a) of Section 1062.07 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1062.07.- Required Estimated Income Tax Payment Attributable to the Distributive Share of a Partner in a Partnership or of a Member of a Limited Liability Company subject to the Provisions of Chapter 7 of Subtitle A of this Code.-

(a) ...

(1) thirty percent (30%) of the estimated amount of the distributive share in the income of a partner or member in the items described in paragraphs (1) through (3), (10), and (11) of subsection (a) of Section 1071.02, minus the amount withheld pursuant to Sections 1062.02 and 1062.03, or the distributive share in the surtax on the gross income provided in Section 1023.10, whichever is greater, during those periods specified in subsection (b); or

(2) ...

(b) ...”

Section 30.- Paragraph (11) of subsection (a) of Section 1071.02 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1071.02.- Income and Credits of Partners.-

(a) General Rule.- ...

(1) ...

(11) other income, gain, loss, deduction, or credit items, as provided by the Secretary through regulations, including the distributive share of each partner in the amount of expenses incurred or paid to a related party or a home office located outside of Puerto Rico, in the value of personal property purchased from such parties, as provided in Section 1022.03 of this Code, and in the gross income, as defined in subsection (e) of Section 1023.10.

(b) ...”

Section 31.- Paragraph (11) of subsection (a) of Section 1114.06 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1114.06.- Inclusion of Special Partnership Income.-

(a) General Rule.- ...

(1) ...

(11) other income, gain, loss, deduction, or credit items, as provided by the Secretary through regulations, including the distributive share of each partner in the amount of expenses incurred or paid to a related party or a home office located outside of Puerto Rico, in the value of personal property purchased from such parties, as provided in Section 1022.03 of this Code, and in the gross income, as defined in subsection (e) of Section 1023.10.

The provisions of this subsection shall not apply to a partner that is subject to the tax imposed under Sections 1091.01(a) or 1092.01(a). For the purposes of Sections 1091.01(a) and 1092.01(a) the distributive share of a partner in the net income of a special partnership shall be the total taxable amount of items (1) through (5), and (9) through (11) of subsection (a).

(b) ...”

Section 32.- Paragraph (11) of subsection (b) of Section 1115.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 1115.04.- Pass-through of Items to Shareholders of Corporations of Individuals.-

(a) General Rule.- In determining ...

(b) Income, Loss, Deductions or Credit Items.- Each shareholder shall ...

(1) ...

(11) other income, gain, loss, deduction, or credit items, as provided by the Secretary through regulations, including the distributive share of each partner in the amount of expenses incurred or paid to a related party or a home office located outside of Puerto Rico, in the value of personal property purchased from such parties, as provided in Section 1022.03 of this Code, and in the gross income, as defined in subsection (e) of Section 1023.10.

The provisions of this subsection shall not apply to a shareholder subject to the tax imposed by Section 1091.01(a), in accordance with subsection (i)

of this Section. For purposes of Section 1091.01 (a), the shareholder's distributive share in the net income of the corporation of individuals shall be the total amount of items (1) through (5), and (9) through (11) of subsection (a).

(c) ...”

Section 33.- Subsection (d) of Section 3030.16 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 3030.16.- Exemptions on Goods Acquired by Government Agencies.-

(a) ...

(b) ...

(c) ...

(d) It shall be considered that the excise taxes on goods acquired by the Department of the Treasury have been paid at the introduction of said goods when said goods have been acquired to be awarded as prizes under the Sales and Use Tax Oversight Program, as part of the prizes awarded under Act No. 10 of May 24, 1989, as amended, known as ‘Additional Lottery System,’ or for any other purpose. The excise tax imposed under Section 12 of Act No. 10 of May 24, 1989, as amended, on the prizes awarded by the Department of the Treasury shall not apply to non-cash prizes, either.

The agency that auctions a vehicle shall require from the acquirer proof of payment of the excise tax before delivering the same.”

Section 34.- Subsection (nn) of Section 4010.01 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4010.01.- General Definitions.-

For purposes of this Subtitle, the following terms, words, and phrases shall have the general meaning expressed below, except when the context clearly indicates otherwise:

(a) ...

(nn) Taxable Services.-

(1) Means any service rendered to any person, including:

(A) Storage of tangible personal property, excluding motor vehicles and all types of foodstuffs;

(B) Leasing; including operating leases that constitute a daily rental; leases of motor vehicles that are essentially equivalent to a purchase, as such term is defined in Section 1033.07(a)(3)(D), shall not be considered taxable services;

(C) Computer programming, including modifications to pre-designed programs;

(D) Installation of tangible personal property by the merchant or a third party; and

(E) Repair of tangible personal property.

(2) Taxable services shall exclude the following:

(A) Services rendered to a person engaged in an income-producing or trade- or business-related activity, except the following:

(i) Bank fees, but limited to charges and fees that financial institutions charge to their commercial customers for the management of demand accounts and other types of deposit accounts to cover the costs of specific transactions and overdrafts. This definition excludes any kind of commission and/or fee related to investment banking transactions such as the issue of debt instruments and financial instruments in public and private stock markets.

(ii) Collection services,

(iii) Security services, including armored services and private investigations, except for security services provided to resident or tenant's associations,

- (iv) Cleaning services,
- (v) Laundry services,
- (vi) Real property and tangible personal property repair and maintenance services (non-capitalizable),
- (vii) Telecommunications services, as defined in subsection (kk) of this Section, and
- (viii) Waste collection services.

Notwithstanding the foregoing, if the services indicated above are provided by a person who is part of a controlled group of corporations or a controlled affiliated group, as defined in Section 1010.04 and 1010.05, by another person that is part of one of said groups, the same shall be subject to the exception herein provided.

- (B) Designated professional services;
- (C) Services provided by the Government of Puerto Rico, including sewer services;
- (D) Educational services, including registration fees;
- (E) Interest and other charges for the use of money; excluding fees for services rendered to a person engaged in an income-producing or trade- or business-related activity charged by financial institutions, as defined in Section 1033.17(f)(4);
- (F) Insurance services and commissions, including any issue of an insurance contract, including, but not limited to life, health, property, and contingency insurance, warranty and extended warranty service contracts, title deeds, reinsurance and excess limit, disability, credit insurance, annuities and bonds, and service fees for the issue of the aforementioned instruments;
- (G) Health or medical-hospital services;

(H) Services rendered by persons whose annual volume of business does not exceed fifty thousand dollars (\$50,000). When a person belongs to a controlled group as defined in Section 1010.04, the volume of business of said person shall be determined considering the volume of business of all members of the controlled group. In case of a person who is an individual, the volume of business shall be determined considering the volume of business of all of his/her income-producing or trade- or business-related activities; and

(I) Services rendered by a ‘tax return, statement, or refund claim specialist,’ as defined in Subtitle F of this Code. For these purposes, the services excluded shall only be those related to the preparation or revision of tax returns, statements, or refund claims regarding the taxes imposed by this Code or by the United States Internal Revenue Code.

(oo) ...”

Section 35.- Subsection (a) of Section 4020.05 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4020.05.- Collection of the Tax.-

(a) General Rule.- Any merchant engaged in any business where taxable items subject to the taxes imposed under this Subtitle are sold shall be required to collect the sales tax as withholding agent, unless:

(1) Merchants engaged in a repair business, including services rendered under warranty, shall not be required to collect the sales tax if such service is provided to a registered merchant and the service is related to the business of the merchant acquiring the service; in this case, the merchant acquiring the service shall be liable for the sales and use tax in accordance with Section 4020.04(a) of this Code; or

(2) In the case of a person engaged in the manufacture of any taxable item, he/she may request, subject to the Secretary's approval, and obtain a waiver whereby he/she shall be relieved from the requirement of collecting, withholding, and depositing the tax imposed under this Subtitle in sales of taxable items to a wholesale distributor, as identified in the waiver.

(b) ...”

Section 36.- Subsections (a) and (b) are hereby amended, new subsections (c) and (d) are hereby added, and subsection (c) is hereby amended and renumbered as (e) in Section 4020.07 of Act No. 1-2011, as amended, to read as follows:

“Section 4020.07.- Collection of Sales Tax on Sales for Resale or on Sales to an Eligible Reseller.-

(a) A duly registered merchant may be relieved from the requirement of collecting, withholding, and depositing the tax imposed under this Subtitle on the sale of taxable items acquired exclusively for resale to merchants who hold a certificate of exemption duly issued by the Secretary, carried out before August 1, 2013.

(b) Except as otherwise provided in this Subtitle, any merchant who makes, before August 1, 2013, a sale for resale to a holder of a certificate of exemption shall document the exempt nature of the transaction by keeping a copy of the certificate of exemption of the purchaser, or through any other method prescribed by the Secretary.

(c) Acquisition of Articles for Resale Delivered after July 31, 2013.-

(1) Waiver.- A taxable item acquired exclusively for resale by merchants who hold a certificate of exemption duly issued by the Secretary shall qualify for the waiver of the collection of sales and use tax provided in this Section, if the item is ordered and paid by the purchaser before August 1, 2013.

(2) **Obligation of Seller.**- Any merchant who, before August 1, 2013, makes a sale for resale that meets the requirements of paragraph (1) of this subsection, to the holder of a certificate of exemption for delivery after July 31, 2013, shall document the exempt nature of the transaction by keeping a copy of the certificate of exemption of the purchaser, or through any other method prescribed by the Secretary.

(d) A duly registered merchant may be relieved from the requirement of collecting, withholding, and depositing the tax imposed in this Subtitle on the sale of taxable items to merchants holding a Certificate of Eligible Reseller duly issued by the Secretary, in accordance with Section 4030.02 of this Code.

(e) Any merchant who does not hold a certificate of exemption or a certificate of eligible reseller who acquires merchandise subject to the sales tax imposed in this Subtitle shall be required to pay the sales tax at the time of the purchase.”

Section 37.- Subsections (a) and (b) are hereby repealed, subsections (c), (d), (e), (f), and (g) are hereby amended and renumbered as (a), (b), (c), (d), and (e), respectively, and a new subsection (f) is hereby added to Section 4030.02 of Act No. 1-2011, as amended, to read as follows:

“Section 4030.02.- **Certificate of Exemption and Certificate of Eligible Reseller.**-

(a) Any manufacturing plant or eligible reseller, as defined in this Section may, subject to meeting the requirements established by the Secretary, request a certificate of exemption from the sales and use tax or a Certificate of Eligible Reseller, that exempts him/her from the payment of the sales and use tax with respect to the purchase of taxable items for sale to persons that may acquire the taxable item exempt from sales and use tax as provided in Chapter 3 of Subtitle D of this Code or for export, as appropriate.

(b) Every certificate of exemption or certificate of eligible reseller issued must be numbered. Certificates of exemption shall be valid for three (3) years and certificates of eligible reseller shall be valid for one (1) year. The Secretary, at his/her discretion, may determine whether to limit or extend the validity of such certificates.

(c) The Secretary may revoke the certificate of exemption from the sales and use tax or certificate of eligible reseller of any person who fails to meet any of the requirements provided in this Subtitle. Any person whose certificate of exemption or certificate of eligible reseller has been revoked may, one (1) year after such revocation, request a new certificate of exemption or certificate of eligible reseller, subject to the requirements established in this Section.

(d) When requesting a certificate of exemption or a certificate of eligible reseller, merchants, to the extent applicable, shall submit to the Secretary the following:

(1) Evidence that he/she is a merchant eligible to obtain a certificate of exemption or is the holder of some exemption as established in this part;

(2) Evidence that he/she is duly registered in the Registry for Merchants; and

(3) In the case of an eligible reseller, he/she shall provide a detailed description of the tangible personal property he/she shall buy for resale to persons that may acquire such taxable item exempt from the sales and use tax as provided in Chapter 3 of Subtitle D of this Code or for export; and

(4) Evidence that he/she has no outstanding debt whatsoever with the Department;

(5) Evidence that he/she has filed all returns, including income tax returns, and those related to the sales and use tax; and provides the Statements of Volume of Business for the payment of the municipal license fees in all the municipalities where he/she is conducting business.

(6) In the case of a new business:

(A) An estimate of the volume of sales during the first two (2) years of operations, indicating the portion of such volume that constitutes sales to persons that may acquire such taxable item exempt from the sales and use tax as provided in Chapter 3 of Subtitle D of this Code or for export ('eligible sales'), and

(B) At the request of the Secretary, a bond for his/her approval and acceptance, in an amount that shall not be less than the amount resulting from multiplying the volume of eligible sales during the first year of operations by seven percent (7%).

(7) In the case of an existing business:

(A) A report showing the volume of sales during the three (3) years immediately preceding the date of the request, or applicable period, indicating the portion of such volume that constitutes eligible sales, and

(B) At the request of the Secretary, a bond for his/her approval and acceptance, in an amount that shall not be less than the amount resulting from multiplying the volume of eligible sales during the three years immediately preceding the date of the request by seven percent (7%).

(e) The Secretary may require a person to furnish documents and evidence of his/her organizational structure, certifications of tax debts, or any other information or document needed during the review process ordered by this Section.

(f) Definitions.-

(1) New Business.- for purposes of this Section, the term new business means any business that has been carrying out operations for less than one (1) year.

(2) Eligible Reseller.- for purposes of this Section, an eligible reseller is a duly registered merchant who acquires taxable items mainly to sell them to persons that may acquire them exempt from the sales and use tax as provided in Chapter 3 of Subtitle D of this Code or for export. For these purposes, the term ‘mainly’ means that during the three (3) taxable years immediately preceding the year of determination, an average of eighty percent (80%) or more of the items withdrawn from inventory by the merchant has been sold to persons that may acquire such taxable items exempt from the sales and use tax as provided in Chapter 3 of Subtitle D of this Code or for export.”

Section 38.- Subsection (c) of Section 4030.08 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4030.08.- Exemption on Taxable Items Acquired by Government Agencies.-

(a) ...

(b) ...

(c) The exemption provided in subsection (a) of this Section shall apply to items acquired by the Department of the Treasury to be awarded as prizes under the sales and use tax oversight program.

(d) ...”

Section 39.- Subsection (a) of Section 4030.12 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4030.12.- Exemption on Prescription Drugs.-

(a) Drugs for human consumption that may be acquired solely and exclusively by medical prescription (known as ‘Rx products’) shall be exempt from taxation under this Subtitle.

(b) ...”

Section 40.- Section 4030.15 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4030.15.- Exemption on Services Rendered by Child Day Care Centers.-

Day care services provided by child day care centers authorized by the Department of the Family, to wit, enrollment fees and monthly payment attributable to such day care, shall be exempt from taxation under this Subtitle. This exemption shall not apply to payment for educational and recreational services.”

Section 41.- Section 4030.18 of Act No. 1-2011, as amended, is hereby repealed and reserved to read as follows:

“Section 4030.18.- Reserved.”

Section 42.- Subsection (a) is hereby amended and a new subsection (e) is hereby added to Section 4030.19 of Act No. 1-2011, as amended, to read as follows:

“Section 4030.19.- Exemptions on Machinery, Surgical Material, Supplies, Items, Equipment, and Technology Used in Providing Health Services.-

(a) Every health service facility covered under the provisions of Act No. 168 of June 30, 1968, as amended, known as the ‘Hospital Facilities Tax Exemption Act,’ or a subsequent similar law, shall be exempt from the sales and use tax set forth in this Subtitle for the purchase of items acquired to be used exclusively in said facility such as machinery, medical and surgical materials,

supplies, devices, equipment, and technology used exclusively to provide healthcare services during the process of diagnosis and treatment for human diseases.

(b) ...

(c) ...

(d) ...

(e) Notwithstanding the foregoing, this exception shall not cover machinery, construction materials, equipment, furniture, and office supplies used in whole or in part in the administrative or commercial phase, (including parking space, medical office buildings, and drugstores) or to provide maintenance in the physical facilities of the hospital unit.”

Section 43.- Subsection (a) is hereby amended, a new subsection (b) is hereby added and current subsection (b) is amended and renumbered as subsection (c), subsections (c), (d), (e), (f), and (o) are repealed, and current subsections (g), (h), (i), (j), (k), (l), (m), and (n) are hereby amended and renumbered as (d), (e), (f), (g), (h), (i), (j), and (k), respectively, in Section 4030.20 of Act No. 1-2011, as amended, to read as follows:

“Section 4030.20.- Uniforms, Supplies, and Textbook Exemption.-

(a) Uniforms and Supplies Exemption.- The retail sale of uniforms and supplies, as defined herein, shall be exempt from the sales and use tax, as provided in Sections 4020.01 and 4020.02, as applicable, during a two(2)-day period in the months of July and January. The Secretary shall issue, not later than June 1 of each fiscal year, a circular letter specifying the two (2)-day period in July and the two (2)-day period in January during which this exemption shall apply. Those years in which said circular letter is not issued, it shall be understood that the period to which this Section refers shall begin at 12:01 A.M. on July 12 and end at midnight

on July 13 of each year; and as for January, such period shall begin at 12:01 A.M. on January 10, and end at midnight on January 11 of each year.

(b) Textbook Exemption.- Textbooks included in an official list of school and university textbooks purchased at retail are hereby exempt from the sales and use tax, as provided in Section 4020.01. Official list shall be understood as that established by an educational institution for its students which states the school textbooks to be used for a specific course or grade, including music books. For purposes of this exemption, the term ‘textbooks’ includes notebooks, regardless of their size.

(c) Definition.- For purposes of this Section, the following terms shall be defined as stated below:

(1) School Uniforms.- For these purposes, ‘school uniform’ means apparel specifically required by an educational institution to be used by its students, which does not have any general or continuous use outside of school to replace regular clothing. The term ‘school uniform’ also means one or more accessories and shoes that serve as complements to the uniform, as specifically required by the educational institution. The Secretary shall prescribe the scope of this provision by regulations or other official document. This exception shall not include the following:

(A) ...

...

(H) ...

(2) School supplies, art school supplies, music school supplies, and educational school supplies sold at retail, as well as storage media, including disks, compact disks, and flash drives.

(A) 'School supplies' are items commonly used by a student in a study course. The following is a thorough list:

- (I) Binders;
- (II) Book bag;
- (III) Calculator;
- (IV) Tape;
- (V) Chalk;
- (VI) Compass;
- (VII) Crayons;
- (VIII) Erasers;
- (IX) Folders, expanding files, expanding file pockets, plastic covers, and manila envelopes;
- (X) Glue, adhesive, and glue stick;
- (XI) Markers, including highlighters;
- (XII) Index cards;
- (XIII) Index card files;
- (XIV) Lunchboxes;
- (XV) Markers;
- (XVI) Loose leaves, ruled filler paper, copy paper, quadrille paper, tracing paper, manila paper, color paper, poster boards, and construction paper;
- (XVII) Pencil cases and other school supply cases;
- (XVIII) Pencil sharpeners;
- (XIX) Pencils;
- (XX) Pens;
- (XXI) Protractors;
- (XXII) Rulers;

(XXIII) Scissors; and

(B) Art or music school supplies and educational school supplies are items usually used by a student in an art or music study course, or used by a student in a study course as reference and to learn the subject taught. The following is a thorough list:

- (I) Clay and enamels;
- (II) Paints, including acrylic paints, tempera, and oil paints;
- (III) Brushes for art work;
- (IV) Drawing and sketch pads;
- (V) Watercolors;
- (VI) Musical instruments; and
- (VII) World maps and globe for reference.

(d) Sales on Lay-away Plans.- A sale on a lay-away plan is a transaction whereby items are reserved for future delivery to a buyer that makes a deposit, agrees to pay the balance of the sales price within a specific period, and receives the merchandise at the end of the payment period.

Sales on lay-away plans of an item shall qualify for exemption when the final lay-away plan payment is made and the item is delivered to the buyer during the exemption period; or when ownership of the item is transferred to the buyer and delivery is made to the buyer during the exemption period. A sale made by means of transferring ownership after the exemption period shall not qualify for exemption.

(e) Rain Checks.- A rain check allows the customer to buy an out-of-stock item at a certain price in the future. Items bought during the exemption period using rain checks shall qualify for exemption regardless of when the rain check was issued. Issue of a rain check during the exemption period shall not

render an item eligible for exemption if the item is actually acquired after the exemption period.

(f) Sales by Mail, Phone, E-mail, or on the Internet.- When an item is sold by mail, phone, e-mail, or on the Internet, the sale qualifies for the exemption provided in this Section when the item is paid by and delivered to the client during the exemption period; or when ownership of the item is transferred to the buyer and delivery is made to the buyer during the exemption period. For purposes of this Section, the sale of an item is not completed or closed until it is delivered to the buyer, after transportation concludes, and the item arrives in Puerto Rico for use and consumption. Items that are pre-ordered and delivered to the client during the exemption period shall qualify for exemption.

(g) Gift Certificates and Gift Cards.- Items acquired during the exemption period using a gift certificate or card shall qualify for exemption regardless of when the gift certificate or gift card was bought. Items acquired after the exemption period using a gift certificate or gift card are taxable even if the gift certificate or gift card was bought during the exemption period.

(h) Returns.- For a period of sixty (60) days immediately following the sales tax exemption period provided in this Section, when a customer returns an item that would qualify for exemption, no credit or refund shall be given on the sales tax unless the client furnishes the receipt or invoice attesting to the payment of the tax, or the merchant has sufficient documentation to prove that the tax was paid on said specific item. This sixty (60)-day period is hereby fixed with the sole purpose of designating a period during which a customer shall furnish documentation attesting to the payment of the sales tax on the merchandise returned. The sixty (60)-day period does not intend to change the return policy of the merchant as to the term during which the merchant shall accept returns.

(i) Different Time Zones.- The time zone of the location of the buyer determines the period of time authorized for the sales tax exemption period provided in this Section when the buyer is in one time zone and the merchant is in another.

(j) Records.- Merchants are not required to obtain a Tax Exemption Certificate or a Tax-Exempt Purchases Certificate on retail sales of items during the exemption period provided in this Section. However, the merchants' records shall clearly identify the type of item sold, the date of sale, the sales price of all items, and, if applicable, any sales tax collected.

(k) Tax-exempt Sales Report.- No special procedures are required to prepare the report on tax-exempt sales of items made during the exemption period. Tax-exempt sales shall be reported in the same manner as tax-exempt sales are reported under the Code and the regulations prescribed by the Secretary. That is, taxable sales and tax-exempt transactions shall be reported as required by law or regulation.”

Section 44.- Subsection (b) of Section 4042.04 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4042.04.- Payment Method.-

(a) ...

(b) Any merchant whose sales volume is equal to or greater than one hundred thousand dollars (\$100,000) annually, as reported in the Registry for Merchants Application or the Monthly Sales and Use Tax Return, shall remit the sales and use tax through electronic transfer. The acceptable transfer method regarding the manner and contents of the electronic transfer of funds shall be established by the Secretary.

(c) ...”

Section 45.- Subsections (a) and (b) are hereby amended and subsections (c), (d), and (e) are hereby added to Section 4050.04 of Act No. 1-2011, as amended, to read as follows:

“Section 4050.04.- Credit for Taxes Paid by a Reseller.-

(a) Credit Claim and Limitation:

(1) Any registered merchant who holds a Reseller Certificate, in accordance with the requirements of subsection (c) of this Section, may claim a credit for the sales tax paid for the purchase of taxable items for resale.

(2) The credit may be claimed in the Monthly Sales and Use Tax Return for the period in which said tax was paid up to a maximum of seventy percent (70%) of the tax liability shown in the return. In order to claim such credit, the merchant shall comply with the documents required by the Secretary through regulations.

(3) The Secretary is hereby authorized to prescribe by regulations or any other method the allowable percentage of credits that are higher or lower than the seventy percent (70%) provided in paragraph (2) of this subsection, for specific trades taking into account their financial and economic factors.

(4) Once the merchant fully complies with the provisions of Section 6054.02 of this Code, he/she may claim, as provided in said Section, a one hundred percent (100%)-credit for the amount paid on account of sales and use tax in the purchase of taxable items for sale.

(b) Credit Carry-over:

(1) If the credit provided by this Section exceeds the sales and use tax to be paid in the Monthly Sales and Use Tax Return for the period in which the tax that entitles the merchant to said credit is paid, the excess may be carried over to subsequent Monthly Sales and Use Tax Returns until it has been exhausted.

(2) Unless the taxpayer establishes to the Secretary, through the documents required by latter, his/her inability to recover, by means of claiming future credits, the amount accumulated and not used, the Secretary may authorize other methods for repayment or use thereof, including a refund.

(c) Reseller Certificate.- Any person duly registered as a merchant that acquires taxable items for resale may request a Reseller Certificate. Such certificate shall be issued by the Secretary with the only purpose of identifying whether or not the reseller may claim the credit established in this Section, and not for the reseller to present it to its suppliers. Each certificate issued must be numbered and comply with the provisions of Section 6054.02, and shall be valid for one (1) year. The Secretary may, at his/her discretion and by a determination to such effects, limit or extend the validity of such certificates. In order to request such certificate, the reseller shall:

(1) Provide a detailed description of the tangible personal property he/she shall acquire for resale in the ordinary course of business;

(2) Have no outstanding debt whatsoever with the Department;

(3) Have filed all of his/her returns, including income tax returns and those related to the sales and use tax;

(4) Provide the statements of volume of business for the payment of the municipal license taxes in all the municipalities where he/she is conducting business;

(5) Meet any other requirements that the Secretary may deem convenient.

(d) The Secretary may revoke the Reseller Certificate to any person who fails to meet any of the requirements provided in this part. Any person whose Reseller Certificate has been revoked may, one (1) year after such revocation,

request a new certificate of exemption, subject to the requirements established in this Section.

(e) The Secretary shall be empowered to make any determination deemed necessary to ensure the effective administration of the tax and full compliance of the provisions of this Section. This power of the Secretary shall include a determination not to issue Reseller Certificates if he/she deems it convenient.”

Section 46.- Subsection (c) of Section 4050.06 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4050.06.- Special Disposition of Funds.-

(a) ...

(b) ...

(c) For periods preceding the date set as provided in Section 6080.14, the proceeds from the zero point five percent (0.5%) part of the municipal sales and use tax authorized by Section 4020.10 and Subtitle F shall be collected by the Secretary, in accordance with Subtitle F, to be deposited in special accounts or funds in the Government Development Bank for Puerto Rico (hereinafter, the ‘Bank’), which shall be used exclusively for the purposes indicated hereinafter. At no time may said sums be deposited in, transferred, or loaned to the General Fund of the Government of the Commonwealth of Puerto Rico, without exceptions. In this same context, the Commonwealth may not deduct any amount whatsoever for debts the municipalities may have with any department, agency, instrumentality, or public corporation regardless of the nature thereof, except for the amount established in Section 4050.06(f). The revenues generated from the sales and use tax shall be specifically distributed for the following purposes:

(1) Zero point two percent (0.2%) of the zero point five percent (0.5%) sales and use tax to be collected by the Secretary shall be deposited in a special account or fund in the Bank denominated ‘Municipal Development Fund,’ created pursuant to Section 4050.07.

(2) ...

(3) ...

After the date set in accordance with Section 6080.14, the Secretary shall prescribe by regulations the manner and to which funds the one (1) percent of the sales and use tax collected by the Municipalities shall be allocated.

(d) ...”

Section 47.- Subsection (a) of Section 4050.07 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4050.07.- Creation of the Municipal Development Fund.-

(a) Creation of the Fund.- A ‘Municipal Development Fund’ is hereby created under the custody of the Bank, which shall be nourished from deposits corresponding to periods ending on or before the day preceding the date set in accordance with Section 6080.14, made from the revenues corresponding to zero point two percent (0.2%) of the proceeds of the zero point five percent (0.5%) authorized by Section 4020.10 and Subtitle F, obtained from the zero point five percent (0.5%) of the sales and use tax imposed by the municipalities, and collected and deposited by the Secretary, pursuant to Section 4050.06(e)(1).

(b) ...”

Section 48.- Subsection (a) of Section 4050.08 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4050.08.- Creation of the Municipal Redemption Fund.-

(a) Creation of the Fund.- A ‘Municipal Redemption Fund’ is hereby created under the custody of the Bank, which shall be nourished from the deposits corresponding to periods ending on or before the day preceding the date set in accordance with Section 6080.14, made from the revenues corresponding to the zero point two percent (0.2%) of the proceeds of the zero point five percent (0.5%) municipal tax authorized by Section 4020.10 and Subtitle F, and collected and deposited by the Secretary pursuant to Section 4050.06(e)(2).

(b) ...”

Section 49.- Subsection (a) of Section 4050.09 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“(a) Creation of the Fund.- A ‘Municipal Improvement Fund’ is hereby created to be nourished from the deposits corresponding to periods ending on or before the day preceding the date set in accordance with Section 6080.14, made from the revenues corresponding to the zero point one percent (0.1%) of the proceeds of the sales and use tax authorized by Section 4020.10 and Subtitle F, obtained from the zero point five percent (0.5%) of the sales and use tax imposed by the municipalities and collected and deposited by the Secretary pursuant to Section 4050.06(e)(3) of this Subtitle, in an account or special fund in the Bank to be allocated through legislation by the Legislative Assembly to be appropriated for capital works and improvement projects in the municipalities, such as:

(1) ...”

Section 50.- Subsection (a) of Section 4060.01 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4060.01.- Registry for Merchants.-

(a) Any person who wishes to do business in Puerto Rico as a merchant must file with the Secretary an Application for Merchant’s Registration Certificate

for each commercial establishment, stating the names of the persons with an interest in said business and their residences, the address of the main office of the business, and any location where sales are carried out, as well as any other information that the Secretary may require.

(b) ...”

Section 51.- Subsection (a) of Section 6041.09 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6041.09.- Additions to Taxes Upon Failure to Pay Individual Estimated Taxes.-

(a) In the event that there is a failure to pay an estimated tax installment within the term established or that the payment made to cover the estimated tax installment is incomplete, unless it is shown to the satisfaction of the Secretary that this was due to a reasonable cause and not due to willing carelessness, there shall be an addition to the taxes of ten percent (10%) of the unpaid amount of such installment. Provided, that the first year in which the special tax on gross income takes effect, this penalty shall not apply with respect thereto, insofar as the provisions of Section 1061.21 of this Code are complied with. For these purposes, the estimated tax shall be:

(1) ...”

Section 52.- Subsection (a) of Section 6041.10 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6041.10.- Failure to Pay the Estimated Tax in the Case of Corporations and Partnerships.-

(a) In the event that there is a failure to pay an estimated tax installment within the term established or that the payment made to cover the estimated tax installment is incomplete, unless it is shown to the satisfaction of the Secretary that this was due to a reasonable cause and not to willing carelessness, there shall be an

addition to the taxes of ten percent (10%) of the unpaid amount of such installment. Provided, that the first year in which the special tax on gross income takes effect, this penalty shall not apply with respect thereto, insofar as the provisions of Section 1061.23 of this Code are complied with. For these purposes, the estimated tax shall be ninety percent (90%) of the tax of such taxable year or the total of the tax determined, as reported in the income tax return filed for the preceding year, whichever is less.”

Section 53.- Paragraphs (2) and (4) of subsection (a) of Section 6054.01 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 6054.01.- Powers of the Secretary under Subtitle D.-

(a) ...

(1) ...

(2) Establish, through regulations, circular letter, information bulletin, or any other determination of a public nature that he/she issues to such effect, any conditions concerning the granting of merchant registration certificates, certificates of exemption from payment, or withholding of taxes imposed by Subtitle D. In order to ensure due compliance with the terms, provisions, and purposes of Subtitle D, the Secretary may impose, among any others which he/she may deem necessary, the following requirements and conditions:

(A) ...

(B) ...

(C) ...

(D) Require the merchant to post signs to duly notify and inform consumers on their right to receive a sales receipt indicating the Sales and Use Tax Oversight Program drawing number and impose penalties for failure to satisfy the requirement of posting such signs.

(3) ...

(4) Inspect and oversee merchants by means of fiscal terminals, applications, mechanisms, devices, the Sales and Use Tax Oversight Program, or other electronic means, as well as require the installation, connection, and use of such equipment, applications, programs, mechanisms, or devices in business as required by the Secretary through regulations, circular letter, information bulletin, or administrative determination of a general nature. No person or merchant may alter, interfere, disconnect, or destroy the applications, equipment, programs, applications[sic], mechanisms, or devices required under this paragraph, or prevent, interfere, object to, or obstruct the access of the Secretary or any of his/her authorized agents to the installation, connection, inspection, or any other procedure conducted by the Secretary or his/her authorized agent in connection with the inspections and oversight operations authorized under this paragraph.

(5) ...”

Section 54.- A new Section 6054.02 is hereby added to Act No. 1-2011 to read as follows:

“Section 6054.02.- Business-related Demand Deposit Account System.-

(a) The Secretary shall require the establishment of an account in a local financial institution for purposes of remitting the Sales and Use Tax to the Department of the Treasury. This requirement shall apply to businesses, even though they are not required to collect the Sales and Use Tax. The Secretary shall prescribe by regulations the processes related to this requirement.”

Section 55.- A new Section 6054.03 is hereby added to Act No. 1-2011 to read as follows:

“Section 6054.03.- Sales and Use Tax Oversight Plan.-

(a) In order to ensure compliance with the terms, provisions, and purposes of Subtitle D, the Secretary is hereby directed to prescribe by regulations, circular letter, information bulletin, or any other determination of a public nature,

the Sales and Use Tax (IVU, Spanish acronym) Oversight Plan, directed to increase the capture and collection of such tax. The oversight plan shall meet, in addition to any other that the Secretary may deem necessary, the following requirements and conditions:

(1) Increase the number of commercial locations required to install, maintain, and use a fiscal terminal, application, or other electronic oversight method at their points of sale.

(2) Establish the mechanisms whereby merchants shall enter any transaction made at the point of sale, regardless of whether it is a taxable item, or the payment method, in the fiscal terminal, application, or other electronic oversight method;

(3) Encourage citizen participation in the sales and use tax capture and collection oversight efforts, through the following mechanisms:

(A) Increase the frequency, amount, and nature of the prizes awarded under the Sales and Use Tax Oversight Plan, including the ability of citizens to win instant prizes and to accumulate points to be redeemed for the payment of fines, penalties, or duties imposed by the agencies of the Commonwealth of Puerto Rico, or the acquisition of goods or services from participating businesses.

(B) Conduct an ongoing and effective media campaign directed to:

(i) raise consumer's awareness on the importance of their citizen responsibility of collaborating in the sales and use tax capture and collection oversight efforts;

(ii) Inform consumers of the benefits and prizes of the Sales and Use Tax Oversight Plan;

(iii) raise merchants and consumer's awareness on the importance of remitting the IVU withheld by the merchant at the point of sale to the Department of the Treasury to be used for public purposes.;

(iv) Inform merchants of the mechanisms provided by Oversight Plan to the Department to detect and penalize tax evasion.

(4) Facilitate merchant's compliance with their obligation to file the IVU return with the Department of the Treasury, by establishing mechanisms that allow:

(A) to reconcile the data gathered through fiscal terminals on transactions made and the IVU collected at the points of sale, and generate a return for all the commercial establishments of the merchant, that may be electronically submitted to the Department;

(B) to establish a business activity-based metrics mechanism, which shall use, among others, the following:

(i) sales history and IVU collected per merchant, as captured through fiscal terminals, devices, or other electronic oversight means; and

(ii) statistical calculations that are representative of the business segment to which the merchant belongs.

(5) Empower the Secretary to electronically debit payments from the IVU withheld from demand deposit accounts defined by the merchant.”

Section 56.- A new Section 6054.04 is hereby added to Act No. 1-2011 to read as follows:

“Section 6054.04.- Periodic Reports to the Governor, the Institute of Statistics and the Legislative Assembly.-

(a) In General.- In addition to any report required by law, the Secretary shall render a quarterly report on the status of the revenues from the Sales and Use

Tax (IVU) and the results of the Oversight Plan established in Section 6054.03 of this Subtitle.

(b) Required Information.- The report shall contain, at least, the following information:

(1) Transactions registered through fiscal terminals during the period included in the Report and accumulated during the current fiscal year, classified under the following categories, among others:

- (A) Total taxable items transactions;
- (B) IVU collected;
- (C) Returns filed, classified as electronic and manual filing;
- (D) Proportion of taxable items between sales, taxable services, and use;
- (E) Number of transactions and the cumulative value thereof;
- (F) Proportion between transactions made in cash and other payment methods.

(2) Number of potential cases of evasion and the estimated tax evasion amount, as identified by the Oversight Plan.

(3) Number of potential cases of evasion under investigation.

(4) Number of cases whose investigation has been closed and the nature of the administrative determination made in each case.

(5) Number of investigators or auditors designated to the Oversight Plan and number of cases assigned to each investigator or auditor during the period included in the Report.

(6) Cumulative data for the fiscal year and the period included in the Report, showing discrepancies between the projected income and the IVU collected.

(7) Corrective plan to make up any potential deficiencies between the projected income and the IVU collected.

(8) Prizes awarded and claimed under the Sales and Use Tax Oversight Plan during the period included in the Report and accumulated during the fiscal year.

(9) Any other information that must be reported to the Governor, to the Institute of Statistics, and the Legislative Assembly about the scope and effects of the Oversight Plan.”

Section 57.- Subsections (a), (b), and (c) are hereby amended and a new subsection (e) is hereby added to Section 6080.14 of Act No. 1-2011, as amended, to read as follows:

“Section 6080.14.- Imposition of Sales and Use Tax by Municipalities.-

(a) Authorization and Mandatory Requirement.- All municipalities shall uniformly and mandatorily impose a sales and use tax pursuant to the authorization established in Section 4020.10. Such tax shall be at a fixed tax rate of one point five percent (1.5%), from which municipalities shall collect one percent (1%) and the Secretary shall exclusively and mandatorily collect zero point five percent (0.5%), to be used in the funds provided under subsections (e)(1), (e)(2), and (e)(3) of Section 4050.06, for the purposes established in Sections 4050.07, 4050.08, and 4050.09, as applicable. The one percent (1%)-tax rate to be collected by municipalities from the one point five percent (1.5%) municipal tax shall be imposed pursuant to the same basis, exemptions, and limitations provided in Subtitle D of the Code, except for the exceptions provided in this Section.

(1) Effective on December 1, 2013, the tax established in subsection (a) of this Section shall be a fixed one percent (1%), which shall be collected in its entirety by municipalities and no portion thereof shall be collected by the Secretary. The one percent (1%)-tax rate to be collected by municipalities

shall be imposed pursuant to the same basis, exemptions, and limitations provided in Subtitle D of the Code, except for the exemptions provided in this Section.

(2) Municipalities, upon approval by the Municipal Assembly, may discretionarily impose the one percent (1%)-tax on food products and food product ingredients, as defined in Section 4010.01(a) of this Act. For sales made before December 1, 2013, in the case of zero point five percent (0.5%) to be collected by the Secretary from the municipal tax, the Secretary shall not collect the zero point five percent (0.5%)-tax on food products or food product ingredients, as defined in Section 4010.01(a) of this Act, and neither shall he/she collect taxes on any of the exempt food products in Section 4030.11.

(3) Credit provided under Section 4050.04

(A) The manner in which the portion of the credit provided by Section 4050.04 of the Code shall be claimed against the one percent (1%)-tax collected by municipalities by virtue of this Section, as of December 1, 2013, shall be established by the Secretary through regulations.

(4) ...

(5) ...

(b) Use of Taxes.-

(1) The moneys originating from the sales and use tax imposed, corresponding to the one percent (1%) to be collected by municipalities shall be used in solid waste collection and recycling programs, the construction of capital works and improvements, healthcare, and security.

(2) For periods prior to December 1, 2013, the moneys originating from the municipal sales and use tax, corresponding to the zero point five percent (0.5%) to be collected by the Secretary, shall be used in such proportions as provided in subsections (e)(1), (e)(2), and (e)(3) of Section 4050.06, for the purposes established in Sections 4050.07, 4050.08, and 4050.09, as applicable.

(c) Tax Collection and Payment.- All municipalities are hereby compelled to collect one percent (1%) of the tax directly or by agreements with the Secretary or with a private business. For periods prior to December 1, 2013, the Secretary shall collect zero point five percent (0.5%) of the sales and use tax established in subsection (a) of this Section. Concerning the foregoing, the tax to be collected by municipalities shall be subject to the following:

(1) ...

(d) ...

(e) The Legislative Assembly may, through Concurrent Resolution, at any time after the effective date of this Act, but before December 1, 2013, postpone the effective date of the reduction of the municipal sales and use tax from the credit to be claimed against the municipal tax and the use of funds from the point five percent (.5%) that is part of the municipal tax, to a date that shall not be later than February 1, 2014. If such point five percent (.5%) is reduced and/or eliminated from the municipal Sales and Use tax, the Legislative Assembly shall set aside the necessary funds in the General Budget to make debt service payment of municipal obligations incurred prior to the effective date of the change, until their maturity, payable with the funds established in Section 4050.08 of this Code. Provided, that any remaining balance or surplus in the funds created under Section 4050.07, 4050.08, and 4050.09 shall belong exclusively to the corresponding municipalities.

In the event that such point five percent (.5%) of the Municipal Sales and Use Tax is reduced and/or eliminated, the Legislative Assembly shall establish through legislation the guidelines and amounts necessary to maintain the Municipal Revenues Matching Fund, the Municipal Redemption Fund, and the Municipal Improvement Fund.”

Section 58.- Severability.-

If any section, subsection, paragraph, subparagraph, clause or subclause, or part of this Act were held to be void or unconstitutional by a competent court, such holding shall not affect, impair, or invalidate the remaining provisions and parts of this Act.

Section 59.- Effectiveness.-

This Act shall take effect immediately after its approval with respect to Sections 21, 22, and 23; provided, that Sections 8 through 15, 17 through 20, 24 through 33, 51, and 52 shall be effective for taxable years beginning after December 31, 2012; and the provisions of Sections 2 through 18, 16, 34 through 50, and 53 through 57 shall take effect on July 1, 2013.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 40-2013 (House Substitute for H. B. 1073) (Conference)** of the **1<sup>st</sup> Session of the 17<sup>th</sup> Legislature** of Puerto Rico:

**AN ACT** to create the “Tax Burden Redistribution and Adjustment Act”; add a new Section 7.022 is hereby added to Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico”; amend Section 3.14 of Act No. 83-1991, as amended, known as the “Municipal Property Tax Act of 1991”; amend Section 6.08 of Act No. 255-2002, as amended, known as the “Cooperative Savings and Credit Associations Act of 2002”; amend Sections 23.0 and 35.9 of Act No. 239-2004, as amended; etc.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 15<sup>th</sup> day of November, 2013.

Juan Luis Martínez Martínez  
Acting Director